

Tabano, Charles

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Reno, NV

August 23, 2006

30 (Pages 114 to 117)

<p style="text-align: right;">114</p> <p>1 it's definite or not. It can be done.</p> <p>2 Q. Does the physician list we have been</p> <p>3 discussing reside on a company laptop; is that it?</p> <p>4 A. Yeah. It's basically my call, it's my</p> <p>5 call plan, is what I do, is I get up in the morning.</p> <p>6 I figure out who I am going to see and when and to</p> <p>7 what frequency.</p> <p>8 Q. How often do you receive a replacement</p> <p>9 laptop from the company?</p> <p>10 A. I guess it's kind of similar to any</p> <p>11 person. When your technology is kind of, gets out of</p> <p>12 date, and they upgrade every few years.</p> <p>13 I don't recall when I received the new</p> <p>14 ones we have now, and they seem to be working pretty</p> <p>15 well so I would think we would have them for a few</p> <p>16 more years, I would hope. I like mine.</p> <p>17 MR. ZUCKER: Rob, this is Jim. I would</p> <p>18 just want to interject one point of clarification.</p> <p>19 Although these physician lists appear to</p> <p>20 be resident on a laptop, that doesn't necessarily</p> <p>21 mean that the information is stored on a laptop. It</p> <p>22 could be the result of network access, for example.</p>	<p style="text-align: right;">116</p> <p>1 you mentioned POA.</p> <p>2 Is that plan of action?</p> <p>3 A. Yes.</p> <p>4 Q. Is that generated by the sales</p> <p>5 organization or by the marketing organization?</p> <p>6 A. They are just periodic sales meetings that</p> <p>7 occur, coincide every four months, and I believe</p> <p>8 that's probably sales.</p> <p>9 Q. I see. So it's a meeting rather than a</p> <p>10 document?</p> <p>11 A. Yes.</p> <p>12 Q. Mr. Tabano, how often do these POAs occur?</p> <p>13 A. They are every four months. Sales cycle,</p> <p>14 basically. It's kind of a seasonal type of thing,</p> <p>15 but about every four months.</p> <p>16 Q. Have POAs occurred every four months for</p> <p>17 the last 15 years?</p> <p>18 A. Actually we used to have them quarterly, I</p> <p>19 believe, but I think it started getting expensive,</p> <p>20 from what I can tell, having meetings a lot, a lot</p> <p>21 of meetings.</p> <p>22 So they eliminated a lot of meetings by</p>
<p style="text-align: right;">115</p> <p>1 And so I don't think that Mr. Tabano is</p> <p>2 here as an expert on the IT technology, and it may</p> <p>3 not be the case that these lists are actually</p> <p>4 resident on the laptop. May or any not be.</p> <p>5 BY MR. LOPEZ: .</p> <p>6 Q. Thank you, Jim.</p> <p>7 Mr. Tabano, do you have any reason to</p> <p>8 believe that the Call Max system you have just</p> <p>9 testified about is not available to folks in</p> <p>10 whatever region Montana is in?</p> <p>11 A. Every sales representative for the</p> <p>12 cardiovascular division has the same Call Max system</p> <p>13 which has physician lists for their particular</p> <p>14 territory.</p> <p>15 They can't see mine. I can't see theirs.</p> <p>16 But it's individual, and it's assigned to you by</p> <p>17 your geography.</p> <p>18 Q. So likely that would be the case for</p> <p>19 salespeople based in Montana, as well; is that</p> <p>20 right?</p> <p>21 A. Yes, every place in the United States.</p> <p>22 Q. Okay. During your testimony a moment ago</p>	<p style="text-align: right;">117</p> <p>1 doing it every four months versus quarterly.</p> <p>2 Q. But it's fair to say that periodic POAs</p> <p>3 have occurred since 1991?</p> <p>4 A. Yes.</p> <p>5 Q. Who conducts these?</p> <p>6 A. Well, there's three levels. Some of the</p> <p>7 meetings are, plan of action meetings, are done on a</p> <p>8 district level, which is just a district manager</p> <p>9 with their small team of nine to maybe ten, 11 sales</p> <p>10 representatives.</p> <p>11 There are regional POA meetings where the</p> <p>12 regional manager conducts those with their entire</p> <p>13 region. There have been area POA meetings, and there</p> <p>14 have been an occasional national meeting.</p> <p>15 But the biggest thing is to try to keep</p> <p>16 the travel down to a minimum and keep the sales</p> <p>17 representatives from traveling a lot, long distance</p> <p>18 to get to these meetings.</p> <p>19 Q. So with regard to POAs at any level that</p> <p>20 you have just described, during the last 15 years,</p> <p>21 do you recall any presentations being made at any of</p> <p>22 these POAs, with regard to pricing for any BMS drug?</p>

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

31 (Pages 118 to 121)

<p style="text-align: right;">118</p> <p>1 A. No. I don't recall any of that.</p> <p>2 Q. And to put a finer point on it, do you</p> <p>3 recall any presentations dealing with AWP or average</p> <p>4 wholesale price at any POA at any level over the</p> <p>5 last 15 years?</p> <p>6 A. I don't understand what you mean by any</p> <p>7 level. Do you mean the national, local?</p> <p>8 Q. Yes.</p> <p>9 A. No. Don't discuss AWP.</p> <p>10 Q. So no discussions at any of these POAs</p> <p>11 about any sort of pricing advantage for any BMS drug</p> <p>12 over any competitor?</p> <p>13 A. It's not that I can recall, but pretty</p> <p>14 much when we do have discussions, we talk about</p> <p>15 formulary advantages, particularly when it's a large</p> <p>16 managed care organization which is really what we</p> <p>17 look forward to now.</p> <p>18 Q. I want to ask you some quick questions</p> <p>19 about the drugs that you have repped. I'll go</p> <p>20 through them quickly.</p> <p>21 With regard to Avapro, during the last 15</p> <p>22 years, has it been your sense that there have been</p>	<p style="text-align: right;">120</p> <p>1 mind, but Diovan and Cozaar are two major</p> <p>2 competitors at this point.</p> <p>3 Q. All right. Same question with regard to</p> <p>4 BuSpar.</p> <p>5 Do you consider that to have had any</p> <p>6 therapeutic competitors in the last 15 years?</p> <p>7 A. No, it's a unique class of drugs, and it</p> <p>8 didn't have any competition within that class of</p> <p>9 drug.</p> <p>10 There were other drugs that were</p> <p>11 anxiolytic or drugs used for the treatment of</p> <p>12 anxiety on the market, but BuSpar is pretty unique.</p> <p>13 Q. All right. And what about Cefzil?</p> <p>14 Do you consider that to have had any</p> <p>15 therapeutic competitors over the last 15 years?</p> <p>16 A. Yes. Many.</p> <p>17 Q. How about if you give me the top two.</p> <p>18 A. Cefitin, Cipro.</p> <p>19 Q. And what about with regard to Coumadin?</p> <p>20 Do you consider that to have had any</p> <p>21 therapeutic competitors over the last 15 years?</p> <p>22 A. No. There is only one warfarin. It's</p>
<p style="text-align: right;">119</p> <p>1 therapeutic competitors to Avapro?</p> <p>2 A. Yes.</p> <p>3 Q. What would those be?</p> <p>4 A. Well, historically, when Avapro came to</p> <p>5 market, there was one other drug.</p> <p>6 Now there are multiple medications within</p> <p>7 that therapeutic class, which is called an</p> <p>8 angiotensive receptor blocker, which is used in the</p> <p>9 treatment of hypertension.</p> <p>10 Q. When it first came on the market, what did</p> <p>11 you consider the competitor to be?</p> <p>12 A. Drug called losartan or Cozaar.</p> <p>13 Q. What is the primary competitor today?</p> <p>14 A. There's no primary. There's five to six</p> <p>15 medications out there that all have various shares</p> <p>16 of the market, and usually driven by managed care</p> <p>17 acceptance.</p> <p>18 Do you want me to list them all?</p> <p>19 Q. Sure.</p> <p>20 A. Do this in alphabetical order, also.</p> <p>21 Benicar, Diovan. Let me see. I can't</p> <p>22 think of the fifth or sixth one. Might come to</p>	<p style="text-align: right;">121</p> <p>1 Coumadin, and it's available generically.</p> <p>2 Q. Do you consider Glucophage to have any</p> <p>3 therapeutic competitors over the last 15 years?</p> <p>4 A. It's a unique therapeutic class of drug,</p> <p>5 and there aren't any other metformin form or</p> <p>6 biguanide-type drugs out there.</p> <p>7 There are other drugs for treatment of</p> <p>8 type two diabetes, but Glucophage is pretty unique.</p> <p>9 Q. Same question with regard to Plavix.</p> <p>10 A. There are -- is a, some competition to</p> <p>11 Plavix, but nothing within that therapeutic class.</p> <p>12 The major competition was aspirin, but now</p> <p>13 Plavix and aspirin is pretty much standard used</p> <p>14 together in combination.</p> <p>15 Q. Do you recall Serzone to have had a</p> <p>16 therapeutic competitor during the last 15 years?</p> <p>17 A. Yes.</p> <p>18 Q. What would that be?</p> <p>19 A. Numerous antidepressants have hit the</p> <p>20 market in the last 15 years.</p> <p>21 Q. Do you consider it to have had a primary</p> <p>22 therapeutic competitor?</p>

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

32 (Pages 122 to 125)

<p style="text-align: right;">122</p> <p>1 A. I am no longer in that, selling that class 2 of drugs any longer, but at the time, many drugs 3 from Prozac to Zoloft, all those drugs you see on TV 4 being advertised all the time, all the 5 antidepressants, they are big. 6 It's a big class of drugs. Everybody is 7 depressed. 8 Q. All right. Sir, and the last one, do you 9 recall, or do you have a sense during the last 15 10 years or so whether or not amikacin sulfate has had 11 a therapeutic competitor? 12 A. I have not sold amikacin recently, and I 13 know there's a lot of antibiotics, and competition 14 is usually driven in a hospital by the type of 15 bacteria that they see within that hospital. 16 Each of those antibiotics has unique 17 therapeutic profiles that hit various bacteria. 18 And in some cases there is no competition, 19 if your drug is the only one that on an antibiogram 20 shows that it's the only antibiotic that's going to 21 kill that particular bacteria in your bloodstream. 22 There are other drugs out there, for sure.</p>	<p style="text-align: right;">124</p> <p>1 A. No. 2 Q. Have you ever done any negotiation with a 3 company called Anthem Prescription Management on 4 behalf of BMS? 5 A. No, I haven't. 6 Q. Have you ever been present at any 7 presentations made by anyone at BMS to a company 8 called Anthem Prescription Management? 9 A. No, I haven't. 10 MR. LOPEZ: All right. To the reporter, 11 could you please mark the document that I have 12 numbered 11 as the next exhibit in series, and pass 13 that out? 14 (Exhibit Tabano 004 marked for 15 identification) 16 BY MR. LOPEZ: 17 Q. And to make the record more clear, I want 18 to indicate that the document I've been referring to 19 has a Bates numbers at the bottom, BMS, slash, AWP, 20 slash, 001512460 through 001512461. 21 Mr. Tabano, you have been handed Exhibit 22 Tabano 004 to your deposition entitled Glucophage XR</p>
<p style="text-align: right;">123</p> <p>1 MR. LOPEZ: All right. Let's go off the 2 record for a moment. 3 (Discussion off the record) 4 BY MR. LOPEZ: 5 Q. Let's go back on the record, and we should 6 be able to wrap up here pretty quickly. 7 Mr. Tabano, off the record I had a 8 discussion with your counsel there about several 9 documents that I thought we might use during your 10 deposition. 11 It's been represented to me that you 12 likely will never obtain these documents, so I just 13 want to ask you a couple generic questions with 14 regard to them. 15 A. We don't like generics in the 16 pharmaceutical industry. That's a bad word. Don't 17 say that. 18 Q. I think you will like this kind of generic 19 as opposed to going through each one specifically. 20 Is it my understanding, sir, based on your 21 previous testimony that you have never done any 22 negotiation on behalf of BMS with any PBM?</p>	<p style="text-align: right;">125</p> <p>1 Prelaunch Program? 2 A. Yes. 3 Q. Have you ever seen this document before? 4 A. Yes. 5 Q. What is this document? 6 A. It looks like when Glucophage XR came out, 7 it's just a way to start the promotion of Glucophage 8 XR from the old plain Glucophage. 9 Q. And about a quarter of the way down the 10 page, there's a little chart, and one of the 11 headings is sales force. 12 Do you see that? 13 A. Yes. 14 Q. And underneath that are four designations, 15 for lack of a better word. 16 The first one is CSS. Do you know what 17 that means? 18 A. Yeah, that was a kind of an honorary title 19 given to sales representatives within their district 20 to be kind of the -- I would guess a point person is 21 the term they used for -- in the treatment of 22 diabetes.</p>

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

33 (Pages 126 to 129)

<p style="text-align: right;">126</p> <p>1 And usually they are the most educated on</p> <p>2 diabetes, or had the most experience, and I believe</p> <p>3 they were called customer solution specialists,</p> <p>4 customer solution specialists.</p> <p>5 Q. And were you a CSS?</p> <p>6 A. Yes, I was.</p> <p>7 Q. And do you know what the reference to</p> <p>8 groups one and seven means?</p> <p>9 A. At one point there were up to seven sales</p> <p>10 groups, and basically the groups within the</p> <p>11 cardiovascular/diabetes division,</p> <p>12 cardiovascular/metabolics division.</p> <p>13 And it basically designated the products</p> <p>14 you sold based on -- and group one and group seven</p> <p>15 were two of those groups that actually promoted</p> <p>16 Glucophage XR.</p> <p>17 Q. Were you in either of those groups?</p> <p>18 A. Yes, I believe I was group one at that</p> <p>19 time.</p> <p>20 Q. And do you know what the next entry CMRS</p> <p>21 means?</p> <p>22 A. That is the cardiovascular metabolic risk</p>	<p style="text-align: right;">128</p> <p>1 did?</p> <p>2 A. That's what they tell me.</p> <p>3 Q. Okay. And, sir, up at the very top it</p> <p>4 indicates that Glucophage XR free has been extended</p> <p>5 until April 30th, but it doesn't have the year.</p> <p>6 Do you have any idea what year this would</p> <p>7 have been?</p> <p>8 A. Geez, I would say it's probably around</p> <p>9 2000 or 2001.</p> <p>10 Q. And if I understand this chart correctly,</p> <p>11 is it telling me that these sales force designations</p> <p>12 that we have just discussed are going to be</p> <p>13 receiving a number of easels and coupons?</p> <p>14 A. Yes.</p> <p>15 Q. And what are the easels?</p> <p>16 A. You know, if you have been to a doctor's</p> <p>17 office, and in the waiting room, they have, like,</p> <p>18 little holders for brochures and things are there</p> <p>19 for various disease states, you know.</p> <p>20 Things that tell you about your</p> <p>21 hypertension, your diabetes or a particular drug you</p> <p>22 may be on. And I believe that's what those are.</p>
<p style="text-align: right;">127</p> <p>1 specialist.</p> <p>2 Q. Were you considered a CMRS?</p> <p>3 A. No. That was a specialty sales position.</p> <p>4 It's basically the position -- the position was</p> <p>5 called, prior to what -- like, the position I have</p> <p>6 now is cardiovascular risk specialist, a CRS.</p> <p>7 It was called cardiovascular/metabolic</p> <p>8 risk specialist in the past, and that was when we</p> <p>9 had a metabolic drug which was Glucophage. We no</p> <p>10 longer have that.</p> <p>11 Q. And finally, do you know what the entry</p> <p>12 HISG means?</p> <p>13 A. Yes, it's hospital institutional sales</p> <p>14 group. So they sold to hospitals and nursing homes</p> <p>15 and things like that.</p> <p>16 Q. Were you a member of that group?</p> <p>17 A. No.</p> <p>18 Q. Off the record, your counsel had indicated</p> <p>19 that this document and perhaps the next document,</p> <p>20 although he didn't say that, actually ask you that</p> <p>21 in a minute, may have come from your hard drive.</p> <p>22 Do you know if this particular document</p>	<p style="text-align: right;">129</p> <p>1 We had -- we give those out quite</p> <p>2 frequently. Just a method of organizing our patient</p> <p>3 education information, et cetera.</p> <p>4 Q. And do I understand that these easels in</p> <p>5 this case were to carry the coupons that are</p> <p>6 referenced?</p> <p>7 A. Yes. That's what it looks like to me.</p> <p>8 Q. And what were these coupons for?</p> <p>9 A. It looks like, and I can't be exactly sure</p> <p>10 because we had quite a few of these for every</p> <p>11 product over the years, but when -- it basically was</p> <p>12 probably for a free amount, maybe a week's worth or</p> <p>13 two weeks or month's worth of Glucophage XR for</p> <p>14 patients who are currently on Glucophage.</p> <p>15 And typically these would go along with a</p> <p>16 prescription from the physician so they can try the</p> <p>17 newer product, which was, had some significant</p> <p>18 advantages over the old product.</p> <p>19 Q. I see.</p> <p>20 So if I understand correctly, then, the</p> <p>21 physician would still write a prescription if he or</p> <p>22 she recommended this particular formulation to the</p>

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

34 (Pages 130 to 133)

<p style="text-align: right;">130</p> <p>1 patient, and then he or she would give one of these 2 coupons to the patient to be able to get -- was it a 3 free sample? 4 A. I think this looks like it might have been 5 a free sample, yeah. 6 Q. Okay. And -- 7 A. Actually not a free sample. Samples come 8 from the physician's office. 9 This looks like free product from a 10 pharmacy, because I see there McKesson, which is a 11 big drug wholesaler, so this looks like it would 12 come from the pharmacy itself. 13 Q. Was it your recollection that the 14 promotion was supposed to mean that there would be 15 only one coupon per patient? 16 A. Yeah. That's what it looks like. 17 Q. And I noticed that it says that these 18 easels contain twenty coupons each. 19 Do you know approximately how many easels 20 with twenty coupons each would be given to a 21 particular physician? 22 A. Well, if you had fifty of them, it looks</p>	<p style="text-align: right;">132</p> <p>1 A. I don't recall that. That would be pretty 2 difficult. I wouldn't be able to know. I mean, I 3 might be able to keep a running total in my -- 4 somewhere, but that would be pretty difficult. 5 Mostly if you leave it out there, in a 6 doctor's office, if they use them, fine. A lot of 7 times they don't use them, and I could probably read 8 -- give it to another doctor, if they weren't going 9 to use them. 10 But typically they will commit to the use 11 of those in the beginning, or I won't leave them in 12 the first place. 13 Q. Were you, as a salesperson in conjunction 14 with the promotion, given any sort of instruction on 15 what the interplay was with the patient who happened 16 to be insured? 17 In other words, could that patient submit 18 one of these coupons, but still get reimbursement 19 from his or her insurer, as well? 20 A. I would think that's something that the 21 patient would have to take up with their insurance 22 company.</p>
<p style="text-align: right;">131</p> <p>1 like most of the sales reps had fifty. Probably 2 give one to each physician. 3 Q. And was there any sort of mechanism in 4 place in case the physician ran through those twenty 5 coupons and needed more? 6 A. Yes, it's probably the same mechanism we 7 use for everything we provide. 8 They either call us and say, hey, we could 9 use some more of these, or when you go in for your 10 next scheduled visit, you ask them if they need 11 anything. 12 You just check the inventory, just replace 13 it. 14 Q. Do you recall if any of these coupons 15 contained any limitation in terms of what their 16 value would be? 17 A. Yeah. There's always an inherent 18 limitation, either on the amount of drug or how long 19 they can -- when they can utilize the coupon. 20 Q. Were you, as a sales representative, 21 supposed to keep track of how many total coupons you 22 disseminated?</p>	<p style="text-align: right;">133</p> <p>1 I'm thinking they wouldn't get reimbursed 2 for something they wouldn't pay for in the first 3 place. 4 Q. So you don't recall, for example, the 5 coupons themselves saying anything about that 6 situation? 7 A. No, I don't. 8 Q. Okay. 9 A. I have to see a coupon and look at it and 10 read it. 11 Q. And let's look at the last page. I have a 12 last question for you. 13 It's states the extension of Glucophage XR 14 3 provides many of you with an opportunity to 15 increase your IC dollars, and then it goes on. 16 What are IC dollars? 17 A. It's incentive compensation. That's our 18 bonus, basically. 19 Q. And were your IC dollars, as this puts it, 20 typically a function of how much product you sold? 21 A. It may be how much product, but also could 22 be a share of a particular market, or if you</p>

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

35 (Pages 134 to 137)

<p style="text-align: right;">134</p> <p>1 increase the physician's use of that particular 2 product, yeah. 3 I'm not quite sure. Sometimes it would be 4 how much, if you switch the product from -- in this 5 case the Glucophage XR had very significant 6 improvement as far as side effects and 7 gastrointestinal side effects and things like this 8 from the old product, and really helped patients to 9 stay on it. 10 So it was a real boost to you to know that 11 patients were staying on their medications because 12 you had a lot better product. 13 So there's a lot of compensation there, 14 but I see in particular would probably increase your 15 market share or sales. Yeah. 16 MR. LOPEZ: All right. Sir, we're on the 17 home stretch. I'm going to ask the reporter now to 18 mark the final exhibit to your deposition which is 19 the document that I had numbered 12. 20 (Exhibit Tabano 005 marked for 21 identification) 22 BY MR. LOPEZ:</p>	<p style="text-align: right;">136</p> <p>1 A. Okay. I recall this now. 2 Q. Okay. So what was the spring free 3 program? 4 A. You know, there were advertisements in 5 newspapers and things like that, and we provided 6 flyers for doctors' waiting rooms, et cetera, that 7 patients could go to Glucophage.com and print out a 8 coupon themselves where they can get a free trial of 9 Glucophage XR, as long as they had a prescription 10 with their physician, so they would -- from their 11 physician. 12 So they bring the prescription for 13 Glucophage XR along with the coupon, and they would 14 get a free trial of the newer product. 15 Q. And then, sir, still within that same 16 paragraph, the third sentence reads, rather than 17 focus on lower costs, comma, sell efficacy of 18 Glucophage XR, and establish it before promoting 19 spring free. 20 A. Yes. 21 Q. Okay. To whom were you supposed to sell 22 the efficacy of Glucophage XR?</p>
<p style="text-align: right;">135</p> <p>1 Q. All right. Sir, to make this clean for 2 the record, this document is Bates numbered at the 3 bottom BMS, slash, AWP, slash, 001512472 through 4 001512473. 5 This document, sir, is titled key 6 takeaway, key takeaways, excuse me, Glucophage XR 7 telephone conference 4/5/01. 8 Do you recall ever seeing this document 9 before? 10 A. Yes. 11 Q. Do you have any idea whether this is one 12 of the documents that came from your hard drive? 13 A. Is this one of the ones? 14 MR. SWEENEY: We believe it is. 15 MR. ZUCKER: I'll represent that this came 16 from Mr. Tabano's hard drive. 17 BY MR. LOPEZ: 18 Q. All right. If you look at the third 19 bullet point, it's headed spring free program. 20 Briefly what was the spring free program? 21 A. Let me read this. 22 Q. Okay.</p>	<p style="text-align: right;">137</p> <p>1 A. Well, to physicians. You are more 2 interested in, you needed to tell them how well it 3 worked as far as lower blood sugars and some of the 4 advantages that it had. 5 You know, it's no use to promote free 6 anything if they are not convinced it's going to 7 work. 8 So that's kind of what our focus always 9 is, sell the efficacy of your product. 10 Q. And then the first clause of that sentence 11 reads rather than focus on lower cost. 12 What did Glucophage have a lower cost in 13 comparison to? 14 A. Well, I don't think -- 15 MR. SWEENEY: Object to the form. 16 I don't think that refers to Glucophage. 17 I think that refers to XR. 18 Is that right, Charlie? 19 BY MR. LOPEZ: 20 Q. I think that's correct. And I may have 21 left off the XR. Excuse me, if I did. 22 What was Glucophage XR lower in cost than?</p>

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

36 (Pages 138 to 141)

<p style="text-align: right;">138</p> <p>1 A. Because it was used less times than the 2 old, the metformin, the old metformin of Glucophage 3 three or four times a day, I guess it would be of 4 less cost to managed care organizations and to 5 patients if they were that group of patients that 6 did have no insurance. 7 Q. So in conjunction with -- well, first of 8 all, did you receive any formal training from BMS 9 with regard to any aspect of Glucophage XR? 10 A. Yes. 11 Q. And during the course of that training, 12 were you provided with any information that showed 13 you that in fact Glucophage XR might be less costly 14 over a given period of time than Glucophage because 15 of what you just mentioned, the dosage factor? 16 A. I think the only, from what I can recall, 17 the only reference that was made to us regarding the 18 cost of Glucophage and Glucophage XR was the fact 19 that if patients were able to maintain and control 20 their diabetes with Glucophage, which was again a 21 new entity in the diabetes line, there was less, 22 there was less chance for them to have had a second</p>	<p style="text-align: right;">140</p> <p>1 about, then. 2 So do I understand correctly, then, that 3 you don't recall being provided any training in that 4 regard with regard to Glucophage and Glucophage XR? 5 A. No, other than just the generality I just 6 mentioned to you. 7 Q. Okay. But that was spoken of in training, 8 the generality? 9 MR. SWEENEY: Asked and answered. 10 You can answer. 11 BY MR. LOPEZ: 12 Q. I don't believe it was. 13 A. It's implied that's the case. Usually 14 once or twice a day versus three or four times a 15 day. 16 Q. Okay. And do you recall seeing in 17 training any kind of written materials that made any 18 kind of comparison on the basis of cost between 19 Glucophage XR and Glucophage? 20 A. No. 21 MR. LOPEZ: Tom, do either of you have any 22 questions?</p>
<p style="text-align: right;">139</p> <p>1 drug added to their, different type of drug, added 2 to their drug regimen to keep them under control, 3 which would absolutely be a cost advantage to 4 patients and to managed care organizations. 5 Q. But what about with regard to any cost 6 differential between using Glucophage XR and 7 Glucophage? 8 MR. SWEENEY: Object to the form. 9 BY MR. LOPEZ: 10 Q. Were you provided with any training in 11 that regard? 12 MR. SWEENEY: Object to the form. 13 You can answer. 14 THE WITNESS: I don't really recall 15 directly comparing a dollar price of Glucophage to 16 Glucophage XR. 17 Again, it's a matter of, if you take, if 18 you eat three times a day or four times a day versus 19 twice, you are going to probably spend less money on 20 food. 21 BY MR. LOPEZ: 22 Q. Okay. And that's the context I'm talking</p>	<p style="text-align: right;">141</p> <p>1 MR. SWEENEY: Are you done? 2 MR. LOPEZ: I believe I am for now. 3 MR. SWEENEY: We have no questions. 4 MR. ZUCKER: Are you still done? 5 MR. SWEENEY: The deposition is concluded. 6 MR. LOPEZ: Well, now, just hold on one 7 second. 8 MR. SWEENEY: You said you were done. 9 MR. LOPEZ: I said for now. But I believe 10 I am concluded. 11 I want to thank you, Mr. Tabano, for 12 attending your deposition. 13 MR. SWEENEY: Okay. Goodbye. 14 (Proceedings concluded at 12:34 p.m.) 15 16 17 18 19 20 21 22</p> <p style="text-align: right;">CHARLES TABANO</p>

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

37 (Pages 142 to 143)

<p>1 STATE OF _____)</p> <p>2) ss.</p> <p>3 COUNTY OF _____)</p> <p>4</p> <p>5 I, _____, a notary public</p> <p>6 in and for the County of _____, State of</p> <p>7 _____, do hereby certify:</p> <p>8 That on the ___ day of _____,</p> <p>9 2006, before me personally appeared CHARLES TABANO, the</p> <p>10 witness whose deposition appears herein;</p> <p>11 That the deposition was read to or by him;</p> <p>12 That any changes in form or substance desired by</p> <p>13 him were entered upon the deposition by me with a</p> <p>14 statement of the reasons given by the witness for making</p> <p>15 them.</p> <p>16 That he thereupon signed the deposition.</p> <p>17 DATED: At _____, this</p> <p>18 _____ day of _____, 2006.</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC</p>	142
<p>1 STATE OF NEVADA)</p> <p>2) ss.</p> <p>3 COUNTY OF WASHOE)</p> <p>4 I, DEBORAH MIDDLETON GRECO, a notary public in</p> <p>5 and for the County of Washoe, State of Nevada, do hereby</p> <p>6 certify:</p> <p>7 That on Wednesday, August 23, 2006, at the hour</p> <p>8 of 9:36 a.m. of said day, at 100 West Liberty Street,</p> <p>9 10th Floor, Reno, Nevada, personally appeared CHARLES</p> <p>10 TABANO, who was duly sworn by me to testify the truth,</p> <p>11 the whole truth and nothing but the truth, and thereupon</p> <p>12 was deposed in the matter entitled herein; that I am not</p> <p>13 a relative, employee or independent contractor of counsel</p> <p>14 to any of the parties, or a relative, employee or</p> <p>15 independent contractor of the parties involved in the</p> <p>16 proceedings, or a person financially interested in the</p> <p>17 proceeding; that said deposition was taken in verbatim</p> <p>18 stenotype notes by me, a Certified Court Reporter, and</p> <p>19 thereafter transcribed into typewriting as herein</p> <p>20 appears; that the foregoing transcript, consisting of</p> <p>21 pages 1 through 118, is a full, true and correct</p> <p>22 transcription of my stenotype notes of said deposition.</p> <p>DATED: At Reno, Nevada, this 23rd day of</p> <p>August, 2006.</p> <p>DEBORAH MIDDLETON GRECO</p> <p>CCR #113, RDR, CRR</p>	143

Tabano, Charles

HIGHLY CONFIDENTIAL

August 23, 2006

Reno, NV

1

A	19:2 64:9 67:6 67:7	122:12	antibiotics	111:3
abbreviated 9:4 76:12	administrative	Amikin 24:17	122:13,16	arrangement
abbreviation	19:19 73:13	amount 62:20	anticipate 63:22	16:11
43:8 57:12	adult 63:2	63:18 64:7	antidepressants	asked 52:17,22
ability 72:6	advantage	66:3,4 72:8	121:19 122:5	53:15,18,20
able 6:9 15:20	118:11 139:3	129:12 131:18	anxiety 120:12	54:4 61:4,7
48:16 72:7	advantages	Amphotericin	anxiolytic	63:18 64:6
86:15 123:6	98:16 100:11	26:16 103:2	120:11	77:9 92:15
130:2 132:2,3	118:15 129:18	ancillary 38:8	anybody 10:14	104:21 105:6
138:19	137:4	angiotensive	16:21 17:2,14	140:9
absolutely 85:16	advertised	119:8	84:16	asking 11:10
139:3	122:4	announcement	anyplace 65:13	78:7 87:2,8
academic 19:3	advertisements	108:11	appear 114:19	95:18
acceptance 39:3	136:4	annual 66:19	appeared 4:6	asks 64:8 67:20
39:5 119:17	advised 10:9	annually 40:20	142:9 143:6	aspect 138:9
accepted 108:13	affirmative	answer 16:17	appearing 9:10	aspirin 121:12
access 47:9 65:7	109:19	17:19 30:18	10:4,9	121:13
81:21 114:22	affirmatively	34:16 44:14	appears 58:19	assigned 93:14
accommodate	66:14	46:14 47:15	142:10 143:17	110:12 115:16
7:13	aftermath 55:14	48:2,16 50:3	apply 52:20	assignment
accurate 48:21	ago 27:21 40:10	50:11 51:2,6	appreciate 88:1	56:21 57:3
52:6 67:1	61:1 71:14	51:21 52:20	88:7	assistant 19:19
71:16 72:7	77:22 85:5	55:2 61:14	approved 38:5,7	73:14
93:20,22	91:15 92:20	65:16 72:5,7	42:9 76:1	assistants 41:6
action 1:6 111:7	108:7 112:18	73:10 79:9,17	81:11 89:18	assisted 30:17
116:2 117:7	113:11 115:22	87:7 92:9,16	approximate	ASSN 57:3
ACTIONS 1:9	agreed 33:17	96:5,18 97:1,2	60:17	association 58:2
activities 37:21	ahead 11:4,18	97:4,5 106:20	approximately	attachment
add 96:7 110:19	21:21 31:12	139:13 140:10	5:18 6:4 27:22	111:17
added 25:5	32:4 33:20	answered 92:15	28:3 37:10	attain 81:9
88:18 139:1,1	109:3	104:22 105:7	61:1 80:9	attend 18:6,8
addition 52:8	allowed 113:20	140:9	108:5,7 109:22	attending
64:1	allows 38:6	answering	110:3 130:19	141:12
additional 41:13	alphabetical	48:11	April 128:5	audit 67:4
96:15	24:14,19	answers 47:6	area 32:6 37:3,3	August 1:15 4:1
additions 88:17	119:20	51:14 100:20	37:13 45:17	13:21 54:20
89:2	ambiguity 83:22	Anthem 124:3,8	67:10 68:11	143:4,20
address 5:1,6	ambiguous	Anthony 69:17	71:7 87:20	authors 38:8
32:16 86:16	83:16	antibiogram	108:14 117:13	automatically
adhered 107:10	amikacin	122:19	areas 37:3 60:8	65:1
administration	102:17 122:10	antibiotic	60:10	available 23:21
		122:20	arena 110:15	39:10,10 47:12

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

2

74:18 108:17 115:9 121:1 Avalide 23:13 25:7 Avapro 23:13 25:7 87:17 88:9 90:11,22 91:4,7,9 92:2,5 92:11,14,18 94:7,17,21 118:21 119:1,4 Avenue 2:7,18 average 1:6 7:20 8:20 9:3 39:17 42:22 43:2 45:17 53:15 75:17 94:21 98:1 104:4,22 105:2,17 106:13 118:3 aware 12:17 33:3,5 80:19 98:5,8 99:12 99:15,18 101:16 AWP 9:4 39:17 42:22 44:22 53:15 54:4 75:17,20 76:3 94:21 98:20 99:8 100:3,18 101:8 102:2 104:4,19 105:7 105:17 109:1 118:3,9 124:19 135:3 a.m 4:2 143:5	20:5,17 24:4 27:6 29:7,10 33:13 34:18 35:5 44:13 49:18 50:9 61:5 62:8 71:22 80:17 82:3 103:5,9 112:18 113:10 123:5 background 13:8 55:10 backwards 27:5 bacteria 122:15 122:17,21 bad 123:16 balance 66:18 67:1 ballpark 104:15 base 90:9 111:9 based 10:1 35:22 43:18 67:15 69:2,6 74:14 85:5 95:6 108:20 115:19 123:20 126:14 basic 110:17,21 111:4,19 112:1 basically 30:12 38:17 73:16 114:4 116:14 126:10,13 127:4 129:11 133:18 basis 39:11 63:19 65:7 140:18 Bates 124:19 135:2 becoming 104:5 began 20:2	beginning 82:12 132:11 behalf 14:19 15:9,15 123:22 124:4 believe 9:5 12:9 13:18,21 29:7 29:12,18 40:20 43:13 44:3 58:11 67:16 68:12,16 69:16 69:19 70:6 71:9 75:2,8 77:22 85:11 88:3 92:22 96:14 102:16 115:8 116:7,19 126:2,18 128:22 135:14 140:12 141:2,9 benefit 43:12 Benicar 119:21 Berman 2:6 Bernadette 68:16 best 6:21 7:5,13 24:12 48:21 51:10 54:7 70:11 72:6 75:11 83:7 108:19 better 42:21 45:19 125:15 134:12 big 122:5,6 130:11 biggest 117:15 biguanide-type 121:6 bit 15:6 44:10 50:17 52:16 91:6 98:15	Blenoxane 25:16 95:2,3,5 95:10,15 96:21 blocker 119:8 blood 137:3 bloodstream 122:21 BMS 9:18 14:8 14:19 15:9,15 16:6,9,21 17:4 19:12 20:13 21:5,12,17 22:10,11 23:2 26:19 29:17 32:12 34:4 43:18 44:8,19 45:20,22 49:10 51:16,16 54:5 54:18 56:10 58:21 62:22 64:19 65:6 66:14 67:3 76:16,21 77:3 79:6,6 80:14 80:15 83:19 84:10,16 85:5 85:6,22 86:2,4 87:3,12,14 89:7 90:4 91:3 94:12,15,20 100:14 101:5 103:11,13 104:5,17,19 105:10,17,21 106:5,7,10,13 106:14,17 117:22 118:11 123:22 124:4,7 124:19 135:3 138:8 BMS/AWP/00... 3:12	BMS/AWP/00... 3:14 BMS/AWP/00... 3:10 bonus 16:12 31:11 133:18 boost 134:10 bottom 124:19 135:3 branches 43:19 brand 77:9 78:9 78:16 88:13,15 91:10 break 7:9,10 33:9,15 61:20 103:4 briefly 18:4 22:4 135:20 bring 136:12 Bristol 5:21 8:4 8:7,8,11,13 17:8 19:22 20:7,8,13,18 21:5,16 22:10 Bristol-Myers 2:13 8:9,15,18 17:10,15 19:22 20:11,12 22:13 22:18 55:18 66:22 67:7 69:9 70:7 79:12 81:11 86:12 110:18 broad 96:2 broaden 44:12 brochure 42:5 brochures 34:22 38:4,17 42:12 90:7 128:18 bullet 135:19 bunch 48:6 business 5:20,21
---	---	--	--	---

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

3

19:13 22:21	calls 39:21 40:8	119:16 138:4	chains 52:3	clean 135:1
23:2 27:2,9,14	40:12 41:1,10	139:4	chance 138:22	clear 7:6 124:17
27:20 28:4,9	41:11,15,17	career 30:13,13	change 30:11	clinical 38:7,17
29:6,8,9,13,16	43:5,14,20	31:9 105:10	56:9,12,15	41:20 90:10
29:17,20 30:5	44:2,11 53:6	107:2	58:9 61:14	97:12 98:15
30:9,9,14,19	62:9 64:21	careers 79:21	changed 23:4	100:11
31:3,7,8 37:4,6	campus 69:9	carries 90:8	71:18 75:12	CMRS 126:20
47:7 68:7	car 103:20	carry 81:22	changes 51:7	127:2
82:10	104:13	129:5	72:4 142:12	code 40:19,21
BuSpar 24:17	CARANO 4:3	case 84:9 96:12	channeling	75:1,5,12,15
97:8,13,17	carboplatin	107:6 115:3,18	85:15,21 86:3	coincide 116:7
98:2 120:4,12	25:18 98:5,6	129:5 131:4	86:8	coincides 111:6
C	cardiac 60:5	134:5 140:13	channels 50:14	colleagues 33:16
C 2:1 67:18	cardiologists	cases 6:6 122:18	50:19,19	collection 13:8
85:15	60:5,9 110:13	catalog 79:1,2,3	charge 45:17,18	college 18:6,8
California 10:2	110:14	80:7 91:13	48:9 52:2	19:16
37:16 68:7	cardiology 60:8	93:7,13,16	Charles 1:13 3:2	column 57:3
73:20 74:7	cardiovascular	catalogs 79:4	4:6,9,21	combination
107:18	19:14 30:3	94:13	141:20 142:9	48:13 88:18
call 7:9 41:4,5	36:11,12 37:2	catalog-type	143:6	121:14
44:18,20 45:16	57:16 60:4,5	79:5	Charlie 6:2 45:7	come 37:11
48:6 49:3,5	110:15 111:3	category 44:1	137:18	44:19 45:4
51:3,11 53:9	115:12 126:22	cause 4:7	chart 36:22 74:6	47:13 103:5
53:12 59:20	127:6	CCR 1:22	74:11 85:9	111:15,17
60:4 64:20	cardiovascula...	143:22	86:7 125:10	112:6 119:22
67:10 72:2	126:11	Cefadyl 24:17	128:10	127:21 130:7
81:8 89:13	cardiovascula...	Ceftin 120:18	check 96:8	130:12
110:2,3,4,8,13	127:7	Cefzil 24:17	131:12	comes 45:3 46:7
111:13,15	cardiovascula...	98:8,16 120:13	Cipro 120:18	66:20 113:1
112:8 113:12	126:12	CEO 70:6	circumstances	comma 136:17
113:14,15,20	care 39:4,13	certain 37:8	108:20	command
113:21 114:4,5	44:4,5,8 46:16	39:9	city 19:18,19	113:19
115:8,12 131:8	46:17 57:19	Certified 143:15	71:3,5	commit 132:10
called 4:9,17	58:16 59:10,11	certify 40:19	Civil 1:6	common 46:7
6:10 20:9	59:15,17,19,20	142:7 143:3	clarification	72:21
37:17 52:9	60:13,14 64:2	cetera 6:7 34:22	114:18	communicate
64:20 67:8	81:1,4,13,18	39:4,12 42:6	clarify 17:7	73:18 74:20
68:7 85:6,11	81:22 82:2,7	47:11 49:6	class 44:6 81:4	community 48:7
93:12 111:13	82:17 83:3,13	51:5 90:8	119:7 120:7,8	companies
119:7,12 124:3	83:19 84:3,9	93:19 129:3	121:4,11 122:1	86:12
124:8 126:3	84:18 86:13	136:6	122:6	company 2:13
127:5,7	96:11 118:16	chain 113:18	clause 137:10	21:14 22:2

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

4

24:2 25:2	concerning	100:9	136:17	created 107:13
34:18 39:22	87:12	context 45:3	Coumadin	108:22
40:4,13,16	concluded 141:5	139:22	23:12 24:1	Creek 5:2
42:1,10 50:13	141:10,14	continue 16:6,8	25:6 34:14	criminal 6:6
58:10,12 59:15	conduct 40:19	continued 20:14	35:8 99:1,7,9	CRR 1:22
65:21 72:10	40:21 75:2,6	22:12	120:19 121:1	143:22
73:7 75:6 76:2	75:12,15	contractor	counsel 5:8 9:12	CRS 57:11,13
76:19,20	conducts 117:5	66:20 143:10	10:8 11:12	57:13,21 61:16
105:12 108:18	117:12	143:12	17:9 54:18	127:6
110:12 113:2	conference	control 138:19	123:8 127:18	CSS 125:16
113:12,20	135:7	139:2	143:10	126:5
114:3,9 124:3	conjunction	convinced 137:6	country 37:5	current 4:22
124:7 132:22	101:21 132:13	copy 75:5,7	67:10 94:4	19:11 22:20
compares 66:22	138:7	Corgard 25:12	County 142:3,6	23:6 25:4 27:5
comparing	Connaughton	correct 5:13	143:2,3	30:22 41:1
139:15	68:16,22 69:5	8:22 9:4,5	couple 42:10	47:16 51:10
comparison	69:12	13:22 14:1,5,6	45:16 56:3	56:21 63:15
137:13 140:18	connection 91:3	15:10 16:1,7	63:3 123:13	66:18 67:21
compensation	92:22 97:17	17:11 20:14	coupled 47:22	68:4,4,6 73:12
16:13 133:17	99:4,7,22	33:18,19 40:15	coupon 130:15	73:15 74:5
134:13	100:14 101:5	47:19,20 52:12	131:19 133:9	75:15 86:6
competition	103:12	52:13 61:18	136:8,13	111:1 112:16
120:8 121:10	consider 22:19	84:1,6,7,10	coupons 128:13	113:7
121:12 122:13	106:11 119:11	105:12 106:22	129:5,8 130:2	currently 23:9
122:18	120:5,14,20	137:20 143:18	130:18,20	57:20 110:3,13
competitor	121:2,21	corrected 93:6	131:5,14,21	129:14
118:12 119:11	considered	correcting 85:18	132:18 133:5	customer 51:16
119:13 121:16	106:15 127:2	correctly 47:15	course 6:13 11:9	90:9 126:3,4
121:22 122:11	consistent 46:12	79:17 128:10	77:19 94:11	customers 48:22
competitors	48:22 49:2	129:20 140:2	103:10 106:9	89:12,19,22
119:1 120:2,6	consisting	correspond	106:16 138:11	110:1,5,6,7
120:15,21	143:17	56:15	court 1:1 7:18	CV 22:21 25:2
121:3	consists 23:8	correspondence	54:10 68:20	27:3 30:1,3
completed 22:17	contact 73:13	96:9	143:15	36:4,5,8,9,16
compliance	contacted 55:17	cost 45:8,19	coverage 71:11	36:17,21,22
40:20	contain 39:16	47:3,22 48:4	covered 61:11	57:17 59:18
computer 62:22	77:2 130:18	51:12 137:11	covering 98:9	cycle 116:13
62:22 64:17	contained 80:14	137:12,22	covers 37:8	Cytosan 25:20
78:13,17 111:8	131:15	138:4,18 139:3	Cozaar 119:12	99:13
111:14	contains 75:16	139:5 140:18	120:1	C-O-N 68:17
computers	content 98:12	costly 138:13	create 83:7	
64:22 112:8,13	contents 75:12	costs 47:8	107:7	D
				D 3:1

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

5

data 38:6 41:20 42:5 90:10 111:14 database 112:9 113:8 date 8:16 22:1 56:7,8,13,20 57:3 58:3,5,19 59:3 88:14 114:12 dated 54:20 142:17 143:20 dates 58:7 Dave 109:15 day 4:2 28:9 100:12 138:3 139:18,18 140:14,15 142:8,18 143:5 143:20 days 9:17 deal 47:8 49:22 dealing 95:9 118:3 deals 44:5 dealt 101:8 102:2 Deb 55:14 DEBORAH 1:21 4:5 143:3 143:21 decade 9:1 24:6 25:4 decide 48:9 decreases 51:8 deducts 65:1 deemed 59:15 defendants 11:20 12:6 definite 114:1 definitely 74:7 82:10	degree 18:13,15 18:22 19:1 degrees 19:4 delete 110:19 113:2 delivered 63:2 64:13 demand 83:5,7 Denise 68:8 denote 78:22 department 55:18 67:6 depending 104:16 110:10 deposed 5:15 143:9 deposition 1:12 9:11 10:6,15 11:10 12:21 13:3,19 14:20 15:16 16:16,22 17:4,17 55:14 58:6 123:10 124:22 134:18 141:5,12 142:10,11,13 142:16 143:14 143:19 depositions 6:12 11:20 12:6 95:20,21 depressed 122:7 describe 36:20 described 19:4 81:16 117:20 description 3:6 43:17 designated 126:13 designations 125:14 128:11 desired 142:12	detail 15:6 determine 62:20 63:10 determined 104:10 determines 90:6 develop 34:21 diabetes 121:8 125:22 126:2 128:21 138:20 138:21 diabetic 88:22 Dickinson 18:9 18:21 difference 30:8 31:6,10 106:12 106:12 different 13:13 21:2 23:10 24:2,13 30:11 48:7,8 52:2,2,3 60:1 70:21 71:5,5,11 74:4 77:15 93:18 94:3,3 139:1 differential 139:6 difficult 132:2,4 Diovan 119:21 120:1 direct 53:8 80:22 directives 89:19 directly 44:5 78:11 80:10 82:22 85:1 91:17 111:11 113:21 139:15 directories 73:1 73:7 74:1,15 directory 72:10 73:13	discovery 95:15 96:15 discuss 9:9 10:5 32:15 41:8 42:1,19 81:20 91:3 118:9 discussed 13:18 55:13 74:1 103:18 128:12 discussing 114:3 discussion 105:17 123:3,8 discussions 43:3 52:11 118:10 118:14 disease 128:19 disregard 112:4 disseminated 131:22 distance 117:17 distinction 71:13 93:8 106:2 distinguished 17:9 distribute 63:7 66:4 distributed 41:21 distribution 89:18 93:13 district 1:1,2 34:8 37:7,8,9 37:14,15,17,17 71:7 113:15,17 117:8,8 125:19 districts 37:7 diuretic 88:19 division 8:9 43:20 57:18 59:17,18,19 85:9 86:9	115:12 126:11 126:12 divisions 58:13 58:15 doctor 45:15 47:2 50:9 51:17,18 132:8 doctorate 19:8 doctors 44:18 52:8 53:12 59:21 136:6 doctor's 50:7 53:5 128:16 132:6 document 1:8 12:2,8,15 13:8 54:11 55:1,7 55:11 56:2 58:18 75:18 116:10 124:11 124:18 125:3,5 127:19,19,22 134:19 135:2,5 135:8 documentation 108:15 documents 12:20 13:1,15 13:16,20 14:9 16:15 39:20 75:10 77:2 123:9,12 135:12 doing 61:21,22 63:13 72:8 117:1 Dolan 70:7 dollar 139:15 dollars 133:15 133:16,19 DONALD 4:3 dosage 138:15
--	---	---	---	---

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

6

dosing 42:6,14 100:12	95:16,19,20 96:4,11,12	eat 139:18	enter 63:6 64:13 65:13 78:19	69:19 129:9
doubt 112:22	105:21 106:7	educated 126:1	entered 142:13	EXAMINATI... 3:3 4:11
drive 5:2 13:12 13:15 127:21 135:12,16	106:22 107:1 108:12 111:2 118:19 120:7	education 38:11 38:18 89:15,16 129:3	entire 26:22 35:22 44:15 46:18 58:18	examined 4:7 example 14:14 19:9 34:14
driven 119:16 122:14	120:10,11 121:6,7 122:2 122:2,3,6,22	educational 18:5	62:17 104:17 113:8 117:12	35:9 36:3 64:1 71:20 87:11
drives 75:9	due 46:16	Edward 109:8	entitled 124:22 143:9	111:21 114:22 133:4
drug 34:18 45:19 48:9 65:11 66:2 76:21 78:12 79:6 81:4,9 82:15,20 83:4 83:13 84:20 87:5,12,17 88:11,12,15,18 89:1 91:11 92:2 94:15 99:16,19 100:7 101:2,15,18 102:5,8,11,14 102:20 103:1 106:13,14 108:13,17 117:22 118:11 119:5,12 120:9 121:4 122:19 127:9 128:21 130:11 131:18 139:1,1,2	duly 4:6,10 143:7 Duracef 24:17 E E 2:1,1 3:1,5 109:4,7,8,18 earlier 16:5 37:19 57:7 58:6 61:4 74:21 79:21 93:8 103:18 104:3 earliest 46:22 58:18 59:3 early 9:2 23:15 26:19 27:6 29:10 44:13 45:20 46:5,12 49:19,20 53:14 54:2 61:5 62:11 70:12 71:17,22 73:2 75:13 76:19 77:20 79:5 80:12 82:4,7 86:10 90:12 91:1 easels 128:13,15 129:4 130:18 130:19 easiest 93:17 east 37:3	effect 42:6 effective 58:3 88:4 effects 38:5 42:14 134:6,7 efficacy 136:17 136:22 137:9 efforts 77:20 86:20 Ehret 33:18 35:13 86:15 eight 5:18,19 either 104:1 126:17 131:8 131:18 140:21 Ekborg's 55:14 eliminated 116:22 email 73:14 96:9 111:10,12,15 111:18 employed 104:5 employee 44:1 56:10 143:10 143:11 employees 17:8 employment 6:13 8:17 14:8 20:15 22:17 94:11 103:11 106:9,16 ended 56:22 endocrinologi... 60:6	entity 23:2,2 138:21 entries 39:6,17 56:3 65:20 entry 56:6 57:11 126:20 127:11 environment 47:17 Esq 2:5,15,16 establish 136:18 established 21:18 40:18 et 6:6 34:22 39:4 39:12 42:6 47:11 49:5 51:5 90:8 93:19 129:3 136:6 Etopophos 25:22 99:16 Everybody 122:6 evolved 46:11 46:15,16 47:7 47:7 81:17,18 82:6 evolving 22:2 exact 45:14 47:5 88:13,14 exactly 7:22 22:1,8 23:17 27:18 28:2,5	excuse 20:8,12 31:2 51:16 91:13 93:6 135:6 137:21 executive 19:13 22:20 27:2,9 27:19 28:9 31:3,6 exhibit 3:7,8,9 3:11,13 11:6,6 11:19 12:4,12 14:21 15:12,17 17:3,3 31:13 31:13,17,21 54:13 67:18 109:4 124:12 124:14,21 134:18,20 exhibits 11:11 exist 74:15 existence 12:17 86:9 expensive 116:19 experience 43:18 48:13 74:14 85:5 126:2 expert 115:2 explain 6:1 38:4 42:13 89:8 90:2

Tabano, Charles

HIGHLY CONFIDENTIAL

August 23, 2006

Reno, NV

7

extended 128:4	finally 102:22	21:5,17 22:11	51:6	Geez 128:8
extension	127:11	folks 35:4 71:17	foundation	general 57:15
133:13	financially	72:15,19 115:9	48:19 110:17	90:14 103:22
extensive 75:18	143:13	follow 31:15	110:21 111:5	generality 140:5
extent 15:18	find 14:13,16	81:6	111:20 112:2	140:8
34:11 44:14	50:20,22 51:11	following 32:7	113:1	generalize 89:11
61:5 87:1	62:22 72:3	85:4	four 23:9,11	90:1
extra 16:13	93:11 113:22	follows 4:10	27:21 49:4	generated 110:9
<hr/>	fine 96:19 97:2	food 139:20	108:7 116:7,13	113:11 116:4
F	132:6	force 57:16	116:15,16	generic 123:13
F 2:5	finer 28:22	125:11 128:11	117:1 125:14	123:18
fact 9:9 40:10	39:14 97:22	foregoing	138:3 139:18	generically
82:14 96:13	118:2	143:17	140:14	121:1
138:13,18	finish 6:22	form 17:18	four-month	generics 123:15
factor 82:3	finished 62:2	34:15 46:13	111:8	geographies
138:15	90:16	48:1 50:10	frame 23:16	37:9
factors 104:16	first 4:6 6:18	51:20 60:12	frames 23:10	geography 37:8
fair 117:2	7:20 8:2,19	64:16 65:15	111:8	39:9 71:2 74:5
Fairleigh 18:9	12:10,12 19:16	79:7 86:11	free 3:11 11:13	81:5,12 115:17
18:21	19:20 20:17	87:6 121:5	89:12 128:4	getting 83:8
familiar 34:17	21:17 32:1,5	137:15 139:8	129:12 130:3,5	105:14 116:19
43:8 95:17	56:6,7 57:10	139:12 142:12	130:7,9 135:19	give 13:7 16:10
96:21 97:8	63:9 87:2	formal 105:11	135:20 136:2,8	38:15 45:18
family 59:21	97:15 119:10	105:16,22	136:14,19	51:2 55:10
far 27:6 39:16	125:16 132:12	106:5 138:8	137:5	68:19,20 72:7
57:10 71:6	133:2 137:10	former 67:20	frequency 114:7	78:7 93:22
79:14 82:4	138:7	formularies	frequently	107:21 113:15
134:6 137:3	five 10:22 28:7	80:17	129:2	113:22 120:17
fashion 86:14	29:1,4 33:9	formulary 39:2	front 11:22	129:1 130:1
fast 62:1	108:7 119:14	39:5,9 47:9,18	31:13,18 54:19	131:2 132:8
Faucett 68:12	five-minute	64:1 80:20	63:5 85:10	given 49:21 50:4
68:13 69:2	61:19 103:4	81:7,14 82:16	95:6	51:19 62:11
fax 73:17	Floor 4:4 143:6	82:21 83:6,14	full 42:2,5,14	80:20 82:16
FDA 38:6 93:14	flyer 108:16,17	84:21 89:2	143:18	91:2 100:20
Feel 11:13	flyers 136:6	108:12,13	function 48:12	125:19 130:20
felt 14:14	focus 136:17	118:15	133:20	132:14 138:14
field 9:16 10:4	137:8,11	formulation	future 33:2	142:14
fifth 2:7 119:22	focused 106:21	129:22	F-A-U-C-E-T-T	gives 103:22
fifty 130:22	focusing 32:10	forward 77:5	68:12	104:14
131:1	68:3 76:18	118:17	<hr/>	giving 9:7
figure 114:6	87:15	found 13:15,20	G	Glucophage
files 14:7	folded 20:13	14:4,11,12	gastrointestinal	3:11 24:18
final 134:18			134:7	

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

8

99:19 121:2,8	106:4,20 114:6	63:19 65:10	highlight 87:4	idea 103:22
124:22 125:6,7	122:20 123:19	66:3	HISG 127:12	128:6 135:11
125:8 126:16	128:12 132:8	handed 124:21	historically	identification
127:9 128:4	134:17 137:6	happen 86:4	119:4	11:7 54:14
129:13,14	139:19	112:14	history 18:5	124:15 134:21
133:13 134:5	good 4:13,14	happened	26:19	identified 72:12
135:6 136:9,13	49:13 62:1	132:15	hit 121:19	III 2:15
136:18,22	67:14 103:22	happens 112:16	122:17	imaged 13:11
137:12,16,22	Goodbye 141:13	hard 13:12,15	Hogan 2:17	images 13:12
138:2,9,13,14	goodwill 40:17	75:9 127:21	hold 14:16 27:5	immediate
138:18,18,20	gotten 88:16	135:12,16	27:8 29:5 33:7	69:16
139:6,7,15,16	96:17	Hartson 2:17	72:11 141:6	impatient
140:4,4,19,19	governs 75:16	HCM 85:14	holders 128:18	108:14
Glucophage.c...	graduate 18:11	HCTZ 26:4	holding 71:14	implied 140:13
136:7	great 45:7	100:21	71:17	important 6:19
Glucovance	GRECO 1:21	head 37:6 68:7,9	home 34:19 63:2	improvement
24:20	4:5 143:3,21	86:3	134:17	134:6
go 6:16 11:4,18	ground 6:17	headed 135:19	homes 127:14	inaccurate 51:7
19:6 21:21	group 19:14	heading 32:1	honorary	52:1
27:4 28:11	22:21 29:17,21	58:4	125:18	incentive 133:17
31:12 32:4	30:1 36:5,8,9	headings 125:11	Hooper 69:17	include 42:22
33:13,20 49:5	36:11,16,17,21	heads 37:4	70:4	72:15,19 87:21
49:18 50:20	37:2 126:14,14	health 81:1	Hooper's 69:18	110:5
61:5 62:21	126:18 127:14	85:14,21 86:3	hope 114:16	included 23:18
63:13 72:1	127:16 138:5	86:8	hopefully 11:12	23:19 92:6
73:6 75:6 77:9	groups 29:18	healthcare 52:9	hospital 122:14	94:14 105:17
78:11,13 79:22	35:11 37:10	53:11 54:4	122:15 127:13	includes 32:7
86:18 88:2	89:20 126:8,10	62:10 85:13	hospitals 127:14	including 28:8
95:1 103:9	126:10,15,17	hear 7:20	hour 4:2 63:3	incorrect 93:5
108:1 109:3	guess 25:6 29:3	heard 8:3,19	143:4	increase 31:11
112:8,18	29:4 50:22	76:5,11,16	hours 10:22	63:22 83:2
113:10,19	58:3 72:2 73:5	103:12,14	HPT 26:3	133:15 134:1
118:19 123:1,5	73:6,9 114:10	104:3 108:20	HR 55:17 73:8	134:14
129:15 131:9	125:20 138:3	held 14:15 27:1	human 72:2	increased 64:4
136:7	guessing 27:21	71:21	hundreds 94:2	increases 51:8
goes 133:15		help 31:15 36:6	hypertension	incremental
going 6:18 27:6	H	49:7,21 55:10	88:20 119:9	31:10
31:16 32:16	H 3:5	helped 48:16	128:21	independent
35:13 54:22	Haakensen	134:8	H-A-A-K-E-N...	52:3 143:10,12
58:3 62:2	109:15	hey 131:8	109:15	independently
71:12 80:8	Hagens 2:6	high 72:16	I	40:3
91:10 96:19	half 13:14	higher 104:1,15	IC 133:15,16,19	indicate 124:18
	hand 11:11			

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

9

indicated 13:19 26:21 41:14 52:8,10 63:9 68:3 74:2 104:3 127:18	injury 6:6 inquiry 32:6 inserts 42:13 inspects 66:20 institutional 127:13 instruct 96:5,18 97:2 instructed 107:6 instruction 104:19 132:14 insurance 132:21 138:6 insured 132:16 insurer 132:19 insurers 43:6 interest 89:21 interested 87:22 137:2 143:13 interject 56:18 114:18 internal 59:21 internists 60:7 interplay 132:15 interview 16:21 introduce 11:5 inventories 66:19 inventory 63:6 63:16,20 64:13 64:16 65:2,4,7 65:11,13 66:10 66:15,21 67:1 67:4 131:12 involved 6:4 143:12 issue 44:18,22 87:10 issues 32:16,16 67:11 item 11:22 54:17 63:14	J J 2:15 James 2:16 Jersey 18:10 19:18 34:19 35:5 64:10 67:17 69:4 Jim 13:5,17 17:6 55:9,21 56:19 96:6 114:17 115:6 job 19:16,20 22:22 26:18 30:12 41:8 43:16 58:15 107:19 108:6 jog 28:6,17 jogs 58:8 jszucker@hhl... 2:22 July 8:10,20 22:16	125:18,20 137:8 140:17 140:18 know 7:5,10 11:16 22:1,7 25:10,14 27:18 28:5 32:14 34:6,11,18 35:6 42:20 43:19,22 47:10 48:4 57:14 59:6 61:4,10 65:3 67:3,5,7 67:13,15 69:5 69:18 72:4 73:11 74:13 75:15,19 83:11 84:2,16 85:6 86:5,8,11 87:1 88:5,5,8 89:11 95:14 96:16 103:20 106:1 106:19 107:12 107:16 122:13 125:16 126:7 126:20 127:11 127:22 128:16 128:19 130:19 132:2 134:10 136:4 137:5 knowledge 70:11 knows 32:22	70:9 71:10 ladders 36:18 laptop 114:3,9 114:20,21 115:4 large 69:9 84:17 118:15 late 80:11 launch 3:11 41:13 launched 88:12 law 4:3 7:18 11:2 lawyers 4:16 layers 93:18 leave 42:2,4,8 63:4 89:12 132:5,11 left 137:21 letter 13:22 let's 18:4 20:17 28:22 33:9,20 35:8 48:14 50:17 52:16 55:22 61:19 84:14 107:3 113:9 123:1,5 133:11 level 117:8,19 118:4,7 levels 67:21 117:6 Liberty 4:4 143:5 licensed 19:6 111:1 limitation 131:15,18 limited 32:7 line 35:22 41:9 58:1 111:11 138:21
information 15:20 41:14 42:3,17,18 45:9 48:21 50:8,20 51:1 52:6 58:21 65:14 67:4 72:14 74:2 76:1 80:15 81:21 91:9 92:13,18,22 94:14 99:9 114:21 129:3 138:12 informed 9:15 inherent 131:17		K keep 63:17,18 63:20 64:6 65:12 96:4 112:1 117:15 117:16 131:21 132:3 139:2 keeping 65:4,9 66:15 kept 14:8 key 3:13 135:5,6 kill 122:21 kind 8:14 46:20 47:12 49:21 80:5 89:7 103:19,20 104:12,14 114:10,11 116:14 123:18	L Laboratories 8:5,7,8,12,14 19:22 20:8,13 20:18 21:5,17 22:10 lack 125:15 ladder 30:13 31:9 36:20	

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

10

list 23:3 25:6,7 55:15,19 66:2 66:6,7,8 72:21 73:15 76:10,15 76:21,21,22 77:2,13,14 78:5,6 80:6 86:19 91:7,13 91:13 92:6,11 92:21 93:7,7,9 93:9 95:6 103:17,19,20 104:9 105:20 106:3,3,6,13 106:14 110:2,9 110:16,17,21 111:5 112:17 113:1,11 114:2 119:18 listed 39:16 94:20 lists 38:20,22 39:2,5 72:10 77:16,19 79:12 79:19 80:14 94:3 111:20 112:2 114:19 115:3,13 litigation 1:6 4:17 litigations 6:5 little 83:15 125:10 128:18 live 57:4 lives 37:15 LLP 2:6,17 local 51:3 89:3 118:7 locally 110:20 locate 13:1 located 37:14 Lodi 19:18	long 7:12 8:11 10:21 22:9,14 23:6 27:15 28:3,5,13,15 57:5 81:15 112:1 117:17 131:18 136:9 longer 78:10 80:3 112:7 122:1,2 127:10 look 11:13,18 12:4,10 31:20 54:11 56:6 57:2 67:18 74:6,9 78:13 89:20 109:3 113:10 118:17 133:9,11 135:18 looked 59:2 63:15 109:17 109:20 looking 24:4,10 25:4 31:22 36:22 54:1 86:6 87:10,20 looks 12:9 58:2 60:11 83:4 125:6 129:7,9 130:4,9,11,16 130:22 Lopez 2:5 3:3 4:12,15 6:11 9:13 11:4,8 13:6,10,17 14:2,3 15:4,22 16:20 17:11,12 18:3 21:16,20 28:16 31:19 32:17,20 33:2 33:5,7,13,20 33:22 35:1,15	36:2 46:19 47:14 48:10 49:8 50:16 52:7 54:10,15 55:5,12,20 57:1,9 58:22 59:5 61:3,19 61:22 62:4,7 65:18 69:1 70:3,17 71:8 73:19 74:12 77:6 78:21 79:16 84:2,13 85:19 86:17 87:9 90:18,21 91:22 92:12,19 93:4 95:4 96:1 96:16 97:6 103:4,8 105:9 108:4 109:7,9 109:21 115:5 123:1,4 124:10 124:16 134:16 134:22 135:17 137:19 139:9 139:21 140:11 140:21 141:2,6 141:9 losartan 119:12 lost 75:5 107:19 108:6 lot 48:19 60:8 66:3 81:10 104:16 116:20 116:20,22 117:17 122:13 132:6 134:12 134:13 lots 6:5 72:3,4 95:15,15 low 63:16 lower 104:2,16	136:17 137:3 137:11,12,22 LP 76:7 lunch 62:3 <hr/> M MA 19:17 mail 52:4 73:16 mailer 81:1 mailings 82:14 maintain 138:19 maintained 8:17 20:10 21:6 major 120:1 121:12 majority 110:14 making 142:14 manage 37:10 managed 39:4 39:13 44:3,5,7 46:16,17 64:2 81:1,4,13,18 81:22 82:2,6 82:16 83:3,12 83:19 84:3,9 84:18 86:13 118:16 119:16 138:4 139:4 management 46:4 85:13,15 85:21 86:4,9 124:3,8 manager 9:15 9:18 19:13,19 22:21 27:3,9 27:14,20 28:4 28:10 29:6,8 29:10,13,16,21 30:6,9,10,14 30:19 31:4,7,8 37:8,14,15 43:12 71:2,4 113:15,17	117:8,12 managers 37:9 49:12 67:21 74:19 manages 37:16 67:9 manually 78:20 manufacturer's 104:12 margin 103:15 mark 11:10 124:11 134:18 marked 11:7 12:5 14:20 15:17 54:13 89:15 124:14 134:20 market 46:18 119:5,10,16 120:12 121:20 133:22 134:15 marketing 11:21 12:7 32:2,15,22 34:20 35:11,14 50:15 67:22 90:5,6 116:5 MASSACHU... 1:2 master's 19:1 match 93:15 materials 14:13 37:22 38:1,3,4 38:11,15,18 39:15,16 40:11 41:19 42:9,15 49:15,21 76:20 89:7,10 90:2 91:2 94:20 97:16,16,20 98:1,13,19 99:3,6,22
---	--	---	---	---

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

11

100:3,14,17	117:14	127:21	9:20,21 36:14	143:1,3,6,20
101:4,8,21	meetings 116:6	minutes 33:9	37:18 68:8,11	never 16:4
102:2 107:7,14	116:20,21,22	mission 59:20	68:16,18 72:21	42:18 54:8,21
108:8,21	117:7,7,11,13	60:1,3	85:8 107:20,22	67:13 95:3,5
140:17	117:18	moment 40:10	109:11	103:14 106:15
Matt 96:8	member 35:2	71:13 77:22	named 70:10	107:1 112:20
matter 31:14	127:16	92:20 115:22	names 67:20	123:12,21
51:22 71:1	membership	123:2	national 37:1	new 2:19,19
139:17 143:9	35:6	moments 85:5	93:10,13	18:9 19:18
matters 5:20,20	memory 28:6,18	monetary 66:10	117:14 118:7	29:11 34:19
Max 64:21	58:9	money 139:19	nationally	35:5 41:13,14
111:13,15	mentioned 26:2	Monopril 25:12	104:11	58:10,12,14
115:8,12	37:19 75:1	26:2,3,3 100:7	NDC 93:12 94:7	64:10 67:16
MC 4:3	80:17 82:13	100:11,15,21	necessarily	69:3 77:9,12
McKesson	94:9 97:20	Montana 3:8	114:20	78:9,16 81:8
130:10	98:1,19 99:8	4:16 12:7	necessary 112:7	88:13,15,16,21
MDL 1:5	100:3,18	15:20 16:4	need 7:10 11:15	91:10 112:3
Meadow 5:2	110:22 116:1	55:16 71:11	62:20,21 63:1	113:1 114:13
mean 17:8 59:7	138:15 140:6	74:4 88:4	63:10,11 84:1	138:21
59:9 84:3 88:5	message 49:2	115:10,19	96:14 110:20	newer 129:17
105:5,8 114:21	metabolic	monthly 66:18	112:20 113:10	136:14
118:6,7 130:14	126:22 127:9	months 116:7	113:16,21	news 108:16
132:2	metformin	116:13,15,16	131:10	newspapers
meaning 106:6	121:5 138:2,2	117:1	needed 63:7,21	136:5
means 34:10	method 81:19	month's 129:13	73:12 131:5	nine 117:9
58:4 104:20	129:2	morning 4:13	137:2	normally 50:4
111:7 125:17	methods 80:22	4:14 114:5	negotiation	notary 4:5 142:5
126:8,21	mid 71:22 73:7	mountain 74:8	123:22 124:2	142:22 143:3
127:12	80:11	74:11	neighbor 63:4	notes 143:15,19
meant 78:2	MIDDLETON	move 5:5 107:3	neighboring	notice 3:7,8
104:21	1:21 4:5 143:3	moving 62:1	69:8,11	11:19 12:5
mechanism	143:21	96:2	nephropathy	14:20 15:16
131:3,6	midlevel 41:5	MT 3:9	88:22	54:20
medical 38:8	53:21	multiple 21:7	network 114:22	noticed 130:17
medications	mind 120:1	34:9 58:12	Nevada 1:16 2:3	notices 11:5
46:16 51:4	mine 7:5 33:21	119:6	3:7 4:4,16 5:2	54:18
80:2 119:6,15	114:16 115:15	music 76:8	11:2,21 15:21	notwithstandi...
134:11	minimum 63:18	Myers 5:22 17:9	32:3 55:16	50:3 107:13
medicine 59:22	63:21 64:7	20:8	57:21 68:2	number 3:6 5:3
meet 10:14,19	117:16		70:14,20 87:21	54:12 59:3
11:1	minute 33:8		87:22 88:6	63:10 65:10
meeting 116:9	92:4 107:21		96:12 98:9	66:3,7,8 73:17
		N		
		N 2:1 3:1		
		name 4:15,19,21		

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

12

77:14,14 78:1	occasion 46:5	73:1 74:13,21	64:2 68:10,14	pages 143:18
78:3,5,6,14,18	106:11	76:18 79:4	69:13 70:5,12	paid 16:12
78:22 79:1,3	occasional	83:15 84:12	70:13 72:1	Paloutzian 9:22
83:5 93:7,12	117:14	86:18 90:19	74:10 81:1,5	10:10
93:13 94:5,7	occasionally	92:3,20 107:3	82:17 83:4,12	paper 14:7
104:10,11	6:10 41:12	109:14,16,17	83:17,19,20	93:21
128:13	44:21	113:5 115:22	84:4,4,10,17	paragraph 32:5
numbered 54:11	occupation 8:2	128:3 130:6	85:21 86:4	136:16
124:12 134:19	occur 80:3	133:8 135:22	87:3 90:4,5	paramedic 6:3
135:2	116:7,12	136:1,2,21	106:18,19	6:14 19:5,6,7
numbers 73:16	occurred 91:1	139:22 140:7	108:16 110:19	parse 46:21
73:17 91:13,14	97:9 98:9	140:16 141:13	116:5,5 118:16	50:17 52:16
93:9,17 124:19	116:16 117:3	old 92:2 125:8	organizational	91:6
numerical	occurring 98:22	129:18 134:8	36:22 74:6	parsing 94:18
106:12	office 11:2 34:19	138:2,2	85:9 86:7	part 25:2 43:16
numerous 24:7	41:9 48:6 51:4	omit 24:15	organizations	44:7 64:20
24:7 70:20	53:5 64:10	once 11:11 46:8	39:4,13 44:5	69:9,10 75:9
71:19 95:19	69:3 72:14	64:12 100:12	67:22 81:13,18	80:12 82:10
121:19	73:14,20	140:14	81:22 82:2,7	83:21 84:4
nurse 41:7	128:17 130:8	oncology 95:12	83:13 84:18	85:6,20 90:3
52:10,15,17,22	132:6	95:19,20 96:4	86:13 138:4	participated
53:5,9	officer 6:9	96:12,15	139:4	85:1
nurses 41:9	offices 4:3 62:10	106:21 107:1	organized 32:9	particular 36:14
52:11 53:13	official 50:19	ones 114:14	34:2 36:7	39:3,8 42:14
nursing 127:14	108:15	135:13	86:14	44:1 45:22
NV 3:9	Oh 25:11 40:22	onslaught 80:1	organizing	47:2,18 48:9
	66:8 76:17	onward 26:20	129:2	54:22 56:2,8
	109:12	operates 34:18	OTN 106:18,19	62:21 63:16
O	okay 7:11,14,15	opportunity	ought 53:6	64:2 65:11
object 17:18	8:19 11:17	133:14	outside 17:9	67:5,8,9 77:15
34:15 46:13	12:11,17 14:2	opposed 15:21	25:2 66:20	77:17 78:12
48:1 50:10	14:13,18 21:4	61:16 83:20	overlap 60:2,3,7	81:3,3,14,15
51:20 65:15	24:12 25:1,4	123:19	ownership	82:15,20,21
79:7 87:6	28:6,17 31:17	order 24:14,19	79:13	83:3,13 87:5,5
137:15 139:8	33:6,11 46:20	52:4 63:1,19	o0o 1:3 4:8	87:12,20 88:7
139:12	46:20 47:21	63:21 64:4		89:8 93:16
Objection 91:20	48:14 49:9,18	84:20 119:20	P	108:12 110:11
92:7 93:2	55:12 56:5	ordering 62:17	P 2:1,1	113:18 115:13
obtain 18:22	57:1 58:22	93:22	package 42:13	122:21 127:22
123:12	59:6,14 61:2,4	orders 80:2,5	pads 42:11	128:21 129:22
obtained 13:11	61:21 62:5	organization	page 3:2,6 31:20	130:21 133:22
19:17	70:1 71:20	32:2 44:4,4,6,8	31:21 55:22	134:1,14
obvious 87:1			125:10 133:11	
obviously 8:19				

Tabano, Charles

HIGHLY CONFIDENTIAL

August 23, 2006

Reno, NV

13

particularly 51:7 60:7 77:8 87:21 118:15 parties 143:11 143:12 partner 67:9 pass 124:12 patient 38:11,18 45:18 48:5,9 129:2 130:1,2 130:15 132:15 132:17,21 patients 47:12 49:5 81:21 98:16 129:14 134:8,11 136:7 138:5,5,19 139:4 pay 77:15 133:2 paycheck 16:8 payment 46:15 payor 46:18 81:12 PBM 43:9 123:22 PBMs 43:15,20 44:6 peculiar 74:16 peers 40:7 pen 64:22 pending 7:12 pens 42:10 people 34:20 38:9 70:16 period 21:13,16 24:9 27:2,16 28:20 32:10 44:15 60:17 77:4 87:15 91:17 111:7 138:14 periodic 116:6	117:2 periodically 110:22 periods 51:8 person 42:3 67:5,8,12,15 114:11 125:20 143:13 personal 5:20 6:5 personally 4:5 107:12 110:1 142:9 143:6 person's 9:20 pertain 100:21 pertaining 56:3 56:6 101:18 pertains 65:22 Peter 70:7 pharmaceutical 1:5 8:15 19:21 69:20 70:2 72:17 123:16 pharmacies 41:11,16,18 45:16 48:7 49:4 52:2,4,4 53:6 77:14 78:10,11 79:22 80:2,10 91:10 91:18 93:1,19 94:4 pharmacist 51:11 pharmacists 42:20 43:3 51:3 pharmacy 43:12 50:22 51:3 77:10 78:7 93:21 130:10 130:12	phenomena 82:5 Phone 2:5 physician 45:5 48:22 49:3 50:1,13 51:1,2 53:21 64:4 112:17 114:2 114:19 115:13 129:16,21 130:21 131:2,4 136:10,11 physicians 38:6 38:8 41:5,6 43:4 47:10 52:21 59:21 61:7 63:8 64:21 81:20 83:8 89:20 94:14 110:2,3 110:12,14,19 111:1 137:1 physician's 48:6 130:8 134:1 piece 93:21 pieces 81:12 pin 9:1 58:7 place 64:21 81:16 113:5 115:21 131:4 132:12 133:3 placed 82:16 plain 125:8 Plainsborough 64:11 67:16 69:3,10 plan 3:12 47:11 111:7 114:5 116:2 117:7 planning 57:6 plans 5:5 57:8 Plavix 23:12	24:20 101:2,12 121:9,11,13 play 55:6,6 82:19 played 56:1 please 4:19 7:5 7:10 11:16 12:4 33:10 44:16 124:11 plus 95:21 POA 111:6 116:1 117:11 117:13 118:4 POAs 116:12,16 117:2,19,22 118:10 point 16:9 19:15 21:4,8 22:6,7 24:4 28:22 32:6 39:14 46:18 49:6,19 50:5 53:9 60:12,15 61:15 63:7 72:9 80:21 88:2 97:22 114:18 118:2 120:2 125:20 126:9 135:19 points 13:13 policies 74:21 policy 40:5,13 40:16,17 42:1 50:13 51:16 108:18 Political 18:14 popular 82:9 porch 63:5 portability 112:12 portfolio 36:1 36:11	position 6:8 20:2,7,10,18 21:6 22:20 27:15,17 29:5 30:22 41:2 58:10 60:16 127:3,4,4,5 positions 70:17 70:18 71:15,17 71:21 72:11 possibility 59:4 62:4 possible 90:1 113:13 possibly 24:14 post 18:17 postgraduate 18:22 potential 110:5 practitioner 52:15,18 53:21 practitioners 41:6,7 52:10 Pravachol 24:20 preface 32:5 86:22 87:19 Prelaunch 125:1 preparation 12:21 13:2 16:16,22 17:4 64:5 prepare 10:14 17:17 prepared 108:9 prepares 110:16 preparing 55:7 56:2 prescribe 83:8 111:2 prescribing 42:2 42:5 prescription
--	--	--	--	---

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

14

124:3,8 129:16	52:1,18 53:1	print 75:8 90:8	45:14 47:3,18	87:4,17 88:10
129:21 136:9	53:16 61:8	112:5 136:7	47:22 51:12,19	89:5
136:12	66:3,6 74:22	printed 38:3,15	53:16 54:5	promote 89:1,21
present 5:5	75:17 76:10,15	108:11	62:21 63:14,17	90:7 137:5
32:11 34:5	77:1,14,16,18	printing 112:11	64:1 67:2	promoted 60:15
44:16 45:21	79:1 80:6 91:4	prior 6:12 13:18	78:10,14,16,20	126:15
53:14 54:2	91:7 92:18	27:9 29:5	80:20 81:3	promoting
86:11 87:16	94:3,21 97:20	79:18,22 95:6	83:3,5 88:13	136:18
95:11 124:6	98:2 99:8,11	127:5	88:15,17,19	promotion
presentations	100:3,18 101:8	probably 46:8	89:3,21 91:10	30:12 87:11,17
38:10 83:12	101:12 102:2	71:16 72:20	93:14,15 94:1	89:8 90:2,3
84:17 85:2,7	103:18,20,20	73:8 75:8 76:3	95:12,13 97:13	91:3 95:9 99:4
86:13 89:17	104:1,4,9,12	80:4 106:20	110:10,11	99:22 110:12
94:13 107:8,15	104:22 105:2	116:8 128:8	129:11,17,18	125:7 130:14
117:21 118:3	105:18,20	129:12 131:1,6	130:9 133:20	132:14
124:7	106:3,3,6,13	132:7 134:14	133:21 134:2,4	promotional
president 37:1,4	106:14,14	139:19	134:8,12	89:7 94:19
68:11,15 69:20	108:22 118:4	proceed 33:21	136:14 137:9	97:14 98:13,18
69:20 72:16,17	139:15	proceeding	products 20:22	promotions
presumably	prices 39:7	143:14	20:22 23:9,11	87:11 88:10,17
65:9	42:20,20 52:3	proceedings	24:7,13 25:11	89:3 90:7,11
presume 57:11	76:21 77:3,11	141:14 143:13	34:4,9 35:22	90:12,14,22
pretty 38:18	77:15 91:13	process 28:10	36:4,12,15	96:21 97:8,9
46:17 60:4	92:6,11,18	62:17 82:20	38:5 39:3	97:11,13,17
61:22 71:6	93:9	produce 33:18	41:15 42:2,16	98:6,9,22 99:8
75:18 96:17	pricing 42:18	39:20 40:2,11	45:1 52:18	99:13,16,18
114:14 118:13	45:14 50:20	produced 13:16	53:1 63:1 77:1	100:6,10,15
120:12 121:8	65:14,22 80:14	13:20 40:6	77:3,9,13,15	101:1,5,15,17
121:13 123:6	91:8 92:13,22	54:17 90:4	79:12 80:14	101:21 102:4,7
132:1,4	93:19 94:14,18	95:16	81:20 82:1	102:10,13,19
prevention	98:19 117:22	producing	89:4 103:13	103:1
88:22	118:11	32:15,19,21	126:13	provide 15:20
previous 123:21	primary 41:8	35:10 96:3	professional	38:11 41:13,15
previously	57:19 58:16	product 21:10	54:4 62:10	45:9 48:21
106:2	59:10,11,15,17	32:8,11 34:2,3	professionals	49:15 50:13
price 1:6 7:21	59:19,20 60:13	34:6,6,12,13	53:12	52:6 55:15
8:20 9:4 38:20	60:14 81:19	34:19,20 35:2	profile 42:6	63:8 77:13
38:22 39:6,17	96:11 108:13	35:5,6,17,20	profiles 122:17	78:18 81:20
42:15 43:1,3	119:13,14	35:21 36:9	program 88:3	93:17,21 99:10
44:19 45:3	121:21	38:2 39:8,12	125:1 135:19	113:21 131:7
49:22 50:7	Princeton 69:7	41:9,12,13	135:20 136:3	provided 42:18
51:7,11,18,18	69:10	42:14 44:19	programs 34:21	46:3 50:8,14

Tabano, Charles

HIGHLY CONFIDENTIAL

August 23, 2006

Reno, NV

15

65:12 73:2	44:15 45:5,6	RDR 1:22	92:5,10,17	recollect 95:8
94:20 97:16	45:11 46:1,7	143:22	94:19,22 97:11	recollection
98:14,19 99:3	47:2,6,17,21	reaching 90:9	97:12,14,15,19	54:7 75:11
99:7,21 100:3	48:11,16 50:7	read 12:11,16	97:21,22 98:12	108:19 130:13
100:13 101:4	51:5,17 53:21	32:4 40:19	98:15,18,22	recommended
101:20 104:18	53:22 61:10	132:7 133:10	99:3,6,21	129:22
105:11 110:18	72:5 73:10	135:21 142:11	100:2,5,6,9,17	record 4:20
136:5 138:12	80:8 84:1,14	reads 57:3,11	101:1,7,10,14	33:14 103:9
139:10 140:3	90:17 92:9	136:16 137:11	101:17,20	123:2,3,5,7
provides 40:1	94:17,18 96:19	real 62:4 134:10	102:1,3,4,7,10	124:17 127:18
42:10 51:4	96:20 97:4	realize 63:16	102:13,19,22	135:2
111:14 133:14	105:1,4,6,7,20	really 38:21	104:18 106:3,4	recorded 40:16
providing 51:6	107:3 120:3	47:8,9 51:5	107:22 108:5,8	Redding 10:2
51:18 96:10	121:9 133:12	72:4 73:11	112:10 114:13	37:16
proviso 33:21	questions 11:14	75:22 77:17	117:21 118:1,3	reference 99:11
Prozac 122:3	31:16 49:22	79:14 80:5,6	118:13 121:15	126:7 138:17
PSR 57:19	56:3 61:6,7	91:12 95:18	122:9 131:14	referenced
58:16 59:7	67:11 74:22	105:5 106:21	132:1 133:4	40:10 129:6
60:18 61:12,15	86:16,20 95:1	118:16 134:8	135:8 136:1	references 75:17
public 4:5 6:9	96:16 118:18	139:14	138:16 139:14	referring 124:18
19:1 142:5,22	123:13 140:22	reason 14:15,17	140:3,16	refers 137:16,17
143:3	141:3	71:9,21 88:3,6	recalled 89:6	refills 49:5
publications	Questran 24:20	112:17 113:9	receive 38:1,3	regard 15:7,12
79:6	quick 6:16	113:16,22	48:20 76:2	30:18 34:3,14
purchase 93:19	118:18	115:7	78:20 79:19	35:4 36:13,14
purposes 89:15	quickly 95:2	reasons 142:14	81:7,11 82:14	38:12 44:15
put 28:22 31:12	96:17 118:20	recall 7:22 8:6	89:7 92:21	47:1 52:15
39:14 118:2	123:6	10:13 20:5,19	101:11 114:8	58:9 61:6,8,15
puts 6:8 87:3	quite 8:16 22:2	20:21 21:11	138:8	65:14,19 70:9
133:19	24:15 40:18	23:14 25:5,9	received 47:1	76:8,15 79:6
putting 97:22	68:17 69:21	25:11 27:19	48:12 76:20	80:15 88:9,11
P-A-L-O-U-T...	80:4 91:15	28:12,14,19	79:5,11 105:11	89:5 90:11
9:22	96:2 98:15	47:1,4,5 48:18	105:16 111:19	92:14 94:6,17
p.m 141:14	112:21 129:1	49:17,19 50:2	114:13	97:7 99:1,13
	129:10 134:3	50:5 53:14,18	receives 67:3	99:16,19 101:2
Q	quote 111:6	54:2,9 56:16	receiving 62:18	102:5,8,11,14
quarter 125:9		58:6 60:17	80:13 91:8	102:20 103:1
quarterly	R	72:6 76:22	92:5,11,17	105:20 106:6
116:18 117:1	R 2:1	77:10,17 79:15	106:5 128:13	117:19,22
question 7:4,12	raise 31:16 50:1	80:9,13,16	receptor 119:8	118:21 120:3
15:12 16:17	raised 47:2	87:16 88:21	recess 33:12	120:19 121:9
17:7,21 28:12	ran 131:4	90:12 91:1,2,8	62:6 103:7	123:14 138:9
34:1 35:18	range 38:4			

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

16

139:5,11 140:4 140:4 regarding 11:20 12:6 39:6 42:15,18 76:3 82:14 87:17 90:22 92:18 100:7 101:11 138:17 regards 34:1 67:11 74:22 86:20 98:8 regimen 139:2 region 68:7 71:5 71:7 72:13,21 73:14,20 74:3 74:4,7,8,11,16 74:19 115:10 117:13 regional 37:4,6 68:6 71:4 72:13 117:11 117:12 regions 37:5 70:20,21 74:15 reimbursed 133:1 reimbursement 132:18 relates 1:8 32:2 relationship 19:5 68:1 relative 143:10 143:11 remain 22:9 remained 70:11 remains 30:12 remarks 85:4 remember 21:14,22 22:5 24:5,12 39:1 61:6 75:22	88:1,10,12,13 88:14,16 91:12 109:11 REMEMBER... 4:1 reminding 85:17 Reno 1:16 4:4 5:2 11:2 37:13 45:17 57:21 143:6,20 Reno/Sacram... 37:17 reorganizations 58:12 reorganizing 8:14 rep 8:4,7,11,13 21:1 26:22 36:15,19 57:3 replace 131:12 replacement 114:8 replacing 113:3 113:6 report 39:8 REPORTED 1:21 reporter 6:18 11:10 54:10 68:21 124:10 134:17 143:15 repped 25:10,14 98:4 102:17 118:19 repping 22:6 23:19 24:6 61:9 represent 23:9 34:8 38:2 45:1 52:19 53:2,16 54:16 135:15	representative 20:6,11,15 21:6 22:12 29:12 34:7 37:13 57:20 58:2,16 59:10 59:12,13 60:13 60:15 61:1 86:2 107:18 115:11 131:20 representatives 30:17 36:10 37:11 48:20 55:15 59:16 73:15 74:19 81:2 106:18 117:10,17 125:19 represented 5:8 23:3,6 50:21 123:11 representing 4:16 20:20 21:7,12 23:7 23:15 62:12 reps 95:20 131:1 require 80:6 required 63:3 requires 41:20 110:20 research 50:6 72:8 reside 114:3 resident 114:20 115:4 resides 37:15 resources 72:3 respect 53:11 respond 45:11 45:22 49:11 51:17 53:4 response 12:14	13:1 45:13 49:11,13,16 50:4,7 54:18 responsibility 68:1 70:13 responsive 13:16 14:9,14 restrictions 39:11 result 114:22 results 81:7 retail 78:11 104:12 retiring 57:6 review 16:15 75:19 81:3,4,7 82:15 reviewed 58:17 right 6:16 8:21 11:3 13:17 14:15 15:5 16:3,6 17:16 18:4 19:8,11 22:4,9 23:1 25:2,8,13 26:18 32:1 33:13,20 36:18 40:14 52:14 53:7 54:16 57:10,21 58:1 59:1 61:12,17 62:8 63:11 64:14,22 66:9 70:8 73:21 75:3 82:17 85:12,16 86:18 88:9 94:5,9 97:7 101:13 102:17 103:6 109:10 115:20 120:3,13 122:8 123:1 124:10	134:16 135:1 135:18 137:18 risk 57:16 126:22 127:6,8 Rita 68:12 Rob 4:15 13:5 15:3 17:6 32:14,14 55:9 56:18 58:17 86:15 95:14 96:6 108:1 114:17 Robert 2:5 role 55:6,7 56:1 82:19 roles 58:8 rolled 88:15 room 5:12 128:17 rooms 136:6 Rubex 26:6 101:15,16 rule 12:5 107:10 107:13 rules 6:17 run 66:18 running 65:7 132:3 rural 60:7,9 <hr/> S S 2:1,16 3:5 Sacramento 108:14 safety 6:9 salary 30:11 31:10 sales 8:4,6,11,13 11:20 12:6 20:6,10,15 21:1,6 22:12 26:22 29:12 30:16 32:2,16
---	---	---	--	--

Tabano, Charles

HIGHLY CONFIDENTIAL

August 23, 2006

Reno, NV

17

34:3,6,7,7,8,22	31:4,5 107:12	14:7	118:22 122:9	19:12 28:18
35:12,17,19	115:19	searched 13:14	sent 111:10	70:8 72:9 73:5
36:3,10,13,18	salesperson	seasonal 116:14	112:3	84:15 86:18
37:1,2,7,9,11	21:12 22:10,15	Seattle 2:9	sentence 136:16	95:8 97:7 98:8
37:12,13 38:3	22:19 23:2	second 20:17	137:10	102:16,22
38:10,17 39:21	37:22 39:19	38:14 138:22	separate 84:9	104:4 109:3
40:7,12 41:1	40:7 43:19	141:7	series 51:14	122:8 123:20
41:10,15,17	60:18 61:16	see 11:15 12:12	124:12	128:3 134:16
43:5,20 44:4,8	75:16 82:3,19	55:19 58:22	service 58:7	135:1,5 136:15
44:10,20 46:4	94:12 95:10	59:3 65:3	Serzone 24:21	situation 133:6
48:20 49:12	103:11 106:10	66:14 78:22	101:18 121:15	six 10:22 119:14
50:15 52:11	132:13	83:4 96:9	setting 52:2	sixth 119:22
55:15 57:16,19	salespersons	110:20 113:12	seven 126:8,9,14	sixty 20:22
58:16 59:10,11	107:6	114:6 115:15	Shapiro 2:6	size 63:17
59:13,15,17,19	sample 66:2,5	115:15 116:9	share 133:22	slash 124:19,20
60:13,14 61:1	67:11 130:3,5	119:21 122:3	134:15	135:3,3
62:9 64:3,9	130:7	122:15 125:12	shares 119:15	slate 23:7,8,18
67:7,21 68:3	samples 62:12	129:19 130:10	sheet 66:2,5	small 37:10
68:10,13,15	62:16,21,22	133:9 134:14	Sheree 9:21	117:9
69:13,21 70:2	63:11,18 64:7	seeing 75:22	short 33:9 51:8	smaller 37:9
70:5,13 72:16	64:12,22 65:5	76:22 79:15	shorter 28:20,21	smart 67:8
72:17 77:20	65:10,14 66:1	135:8 140:16	29:1	Sobol 2:6
81:5,11 83:2	66:11,21 67:6	seen 12:2,8	show 38:6,8	sold 20:21 21:9
83:12,17,19,20	130:7	49:14 54:21,22	81:12	24:7 26:5 95:3
84:4,9 86:1,20	save 112:14	76:12 77:8,16	showed 138:12	95:5 107:1
87:3,4,16	saw 12:9	77:19 125:3	shows 74:11	122:12 126:14
88:10 89:16	saying 22:15,16	sees 66:15	122:20	127:14 133:20
90:4,8 93:1	53:4 81:2	sell 23:12,12	side 38:5 42:6	solution 126:3,4
95:9,20 97:8	108:16,17	24:2 34:20	42:13 96:15	somebody 32:21
99:10 103:13	111:15 133:5	35:22 36:1,11	134:6,7	33:2 65:21
107:7,14	says 32:6,8	67:2 78:10	sign 63:8 64:21	66:14 83:11
110:15,18	56:14 66:22	95:12 97:13	signature 63:3	105:7
111:14 112:8	75:20 130:17	136:17,21	signed 142:16	sort 16:11,12
115:11 116:4,6	scheduled	137:9	significant 72:8	29:21 38:20
116:8,13 117:9	131:10	selling 80:10	129:17 134:5	39:20 41:18
117:16 125:11	school 19:7	91:17 110:10	similar 12:10	46:21 54:3
125:19 126:9	science 18:14	122:1	104:8,9 114:10	65:13 72:10
127:3,13	scope 44:13	senior 27:13	simplify 84:14	92:21 104:18
128:11 131:1	scratch 42:11	28:3 29:6,20	simply 96:20	105:14 108:8
131:20 134:15	Sean 32:22 96:8	30:5,8,19 31:2	simultaneously	118:11 131:3
salespeople	96:13	31:7	113:2	132:14
29:14 30:6,15	search 12:20	sense 83:9	sir 4:13 18:4	sorts 37:22

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

18

41:11 44:2 sounds 45:7 source 58:21 speak 42:3 speaking 6:22 6:22 13:5 56:19 79:4 specialist 127:1 127:6,8 specialists 60:4 126:3,4 specialty 19:14 22:21 29:17,18 29:21 30:1 36:16,17,21 57:15,16,17,18 59:13 60:16,22 127:3 specific 49:11 86:20 89:3 96:10 105:8 specifically 49:10 87:15 89:15 95:9 123:19 specifics 46:10 spelling 68:17 spend 139:19 spoke 33:15 spoken 140:7 spread 103:12 spreadsheet 64:17,18 65:12 65:19 spring 135:19 135:20 136:2 136:19 springs 88:6 Squibb 2:13 5:22 8:9,15,18 17:9,10,15 20:1,11,12	22:13 55:18 70:7 ss 142:2 143:1 Stadol 24:20 staff 41:9 45:16 stand 30:3 43:11 57:13 standard 121:13 standing 65:1 start 87:2 125:7 started 8:8 58:15 116:19 starting 25:10 26:19 49:6 starts 58:21 state 2:3 4:16,19 32:3 68:1 71:11 142:1,6 143:1,3 statement 142:14 states 1:1 72:18 115:21 128:19 133:13 status 39:8 56:9 56:12,16 58:9 81:8 stay 134:9 stayed 70:19 71:1 staying 134:11 stays 71:6 steady 70:11 stenotype 143:15,19 step 27:13 28:10 30:13,13 31:9 63:9 stock 91:11 stocked 77:10 stocking 77:12 stopped 80:10	store 66:21 stored 114:21 Street 4:4 143:5 strength 63:17 stretch 134:17 structure 70:22 71:6 structured 32:9 34:2 structures 48:8 studies 38:7,18 stuff 45:8 subject 46:9 54:8 submit 132:17 substance 48:15 49:15 142:12 sugars 137:3 suggest 48:6 49:3 suggested 49:12 104:12 suggestion 45:14 suggests 56:21 Suite 2:8 sulfate 122:10 superior 69:12 70:4 supervise 29:14 30:6 31:4,5 supervisor 68:4 68:5,6 69:16 70:6 supposed 130:14 131:21 136:21 sure 8:16 28:2 51:13 65:8 68:17 69:19,21 72:2 78:1 105:6 112:21	119:19 122:22 129:9 134:3 surgeons 60:5,6 surrounding 108:21 Sweeney 2:15 5:10 6:1 9:12 10:20 15:2,18 16:17 17:18,22 21:13,18 28:12 31:17 32:14,18 32:21 33:3,6 33:11,15,19 34:15 35:10,20 46:13 47:4 48:1,18 50:10 51:20 55:2 57:4 58:17 59:2 60:21 61:2,21 62:2,5 65:15 68:19 69:22 70:15 71:13 73:9 74:10 77:4 78:4,6 79:7 83:15 84:6,12 85:11,16,18 86:15 87:6 90:16,19 91:20 92:7,15 93:2 95:3,14 96:3 96:13 97:4 103:6 105:1 108:1 109:5,8 109:17,20 135:14 137:15 139:8,12 140:9 141:1,3,5,8,13 Sweeney's 33:21 85:4 switch 134:4 sworn 4:7,10	7:16 143:7 synonymous 57:17 system 81:16 113:7 115:8,12 S-H-E-R-E-E 9:21 <hr/> T T 3:5 Tabano 1:13 3:2 3:7,8,9,11,13 4:6,9,21,22 11:6,6,9,19 12:5,12 13:9 14:4,21 15:8 15:13,17 16:1 17:3,3,13 31:12,13,14,20 35:16 51:14 54:13,16 55:22 59:6 62:9 67:18 74:13 82:13 85:20 87:10 96:11 103:10 108:6 109:4,22 115:1 115:7 116:12 123:7 124:14 124:21,22 134:20 141:11 141:20 142:9 143:7 Tabano's 13:12 135:16 tablet 64:22 take 11:13,18 12:4 16:8,10 33:9 41:18 54:11 61:19 64:16 67:18 80:1 103:4 132:21 139:17
--	--	---	--	---

Tabano, Charles

HIGHLY CONFIDENTIAL

August 23, 2006

Reno, NV

19

takeaway 135:6	81:22 128:11	83:18 84:8	90:19 96:8,14	76:18 77:4
takeaways 3:13	ten 28:20,21	92:21 94:6	103:9,19 104:8	78:17 80:21
135:6	29:4 37:11	115:9	106:20 107:21	82:11 87:5,14
taken 6:13	117:9	testify 4:18	114:15 115:1	91:16 95:22
13:13 29:10	tenure 34:4	14:19 15:9,15	116:19 119:22	96:1 109:4
33:12 46:17	104:17	35:11 92:8	123:18 130:4	110:11 111:7,8
62:6 80:5	ten-year 24:9	93:3 95:16	132:20 137:14	122:2,4 126:19
103:7 143:14	Tequin 26:10	143:7	137:16,17,20	138:14
takes 113:5	102:8	testifying 16:13	138:16	times 5:17,18,19
talk 6:20 17:2	term 7:20 8:3,20	testimony 9:7	thinking 133:1	71:18,19 81:10
17:14 18:4	9:3 20:14 29:9	51:15 52:14	thinks 108:2	105:10 132:7
26:18 32:22	29:11 30:19	80:13,18 95:7	third 2:18	138:1,3 139:18
35:11,13 41:22	75:21 76:5,9	115:22 123:21	135:18 136:16	139:18 140:14
44:10 48:3,14	76:11,16 78:1	thank 85:17,18	third-party	title 19:12 20:5
67:14 92:3	78:3 79:3	109:16 115:6	66:19,21	27:5,8,12
96:4,11 118:14	83:17 95:10	141:11	thirty 6:4	57:15 69:18
talked 74:21	103:12,14,15	Thanks 55:21	Thomas 2:15	71:14 125:18
talking 24:8	103:17 104:4,7	theirs 115:15	thought 92:20	titled 135:5
70:15,16 94:6	104:19 125:21	therapeutic	123:9	titles 27:1,3
139:22	termination	119:1,7 120:6	thoughts 104:9	70:17 71:10
tally 65:9	108:21	120:15,21	three 49:4 61:1	tjsweeney@h...
task 90:9	terms 37:21	121:3,4,11,16	113:11 117:6	2:21
Taxol 26:8	38:1 39:15	121:22 122:11	138:3 139:18	today 5:8,12 9:7
102:5	50:4 63:10	122:17	140:14	9:10 10:4,9
team 34:12,13	70:12 71:10	thereabouts	tie 53:13	12:13,18 14:19
34:19 35:6	90:2 131:15	28:1	tier 39:11,11	15:9,15 16:13
36:3,13 38:2	terr 57:11	thing 39:1 51:10	tiers 81:8	23:12 62:14
117:9	territories 3:9	67:14 96:7	time 5:7 7:9,9	73:6 110:1,7
teams 32:8,11	55:16	116:14 117:15	7:10,13 8:18	119:13
34:2,3,7 35:2,5	territory 19:13	things 6:6 42:9	11:13,15,15	today's 10:15
35:17,19,20,22	22:20 27:2,9	73:17 127:15	13:13 16:9	12:21 13:2
36:9	27:13,20 28:4	128:18,20	20:22 21:2,13	16:16,22 17:4
technology	28:9 29:6,8,9	134:7 136:5	22:6,7 23:4,10	17:17
114:11 115:2	29:13,16,20	think 13:19	23:15,22 24:3	told 96:14
telephone 5:3	30:5,9,9,14,19	15:19 24:21	24:22 25:3,15	108:10
73:16 135:7	31:3,7,7 37:12	38:14,19 42:7	26:22 27:16	Tom 96:16
tell 7:17 21:21	37:12 57:12,21	53:20 56:11,13	29:19 34:9,21	140:21
38:19 53:10	59:7 61:16	57:4 58:18	41:22 42:1	top 57:2 120:17
73:12 85:12	64:3 111:2	61:22 62:1,3	44:12,15 45:20	128:3
116:20 128:2	115:14	71:12 74:18	49:19 50:5	topic 34:1
128:20 137:2	testified 4:10	76:3 83:18,22	51:9 60:17	topics 14:20
telling 10:3	16:5 18:1	85:8,12 90:6	61:11 72:9	15:2,3,8,16

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

20

17:3 105:12	truth 7:17 143:7	18:17	132:7,9,10	128:17 136:6
total 131:21	143:8,8	underneath	134:1 137:5	want 6:16 19:15
132:3	try 24:12,14,19	125:14	usually 45:5	22:4 25:13
town 69:8,11	27:4 28:6,22	understand 7:2	48:4 53:8,8,9	26:18,22 28:6
track 65:12	34:10 44:12,16	7:3,4,7,16	78:13 80:22	34:10 44:10,12
131:21	45:17 46:20	17:13,20 34:10	111:8 119:16	47:10 48:4
train 30:15	63:17,20 83:13	35:16 36:6	122:14 126:1	51:13 53:13
trained 30:16	84:14,20 87:4	47:15 51:13	140:13	83:4 86:18
45:21 46:10,11	117:15 129:16	56:1 79:9,17	utilize 131:19	87:2,19 91:6
49:10	trying 28:17	84:3 87:7 95:5	utilized 99:10	92:3 95:1
training 30:17	35:16 49:9,18	98:4 108:10		96:18 97:2
46:3,22 48:12	58:7 82:20	118:6 128:10	V	112:18 114:18
48:13,14,15,20	83:2 85:8	129:4,20 140:2	vague 79:8	118:18 119:18
49:14 54:1,3,8	107:22	understanding	value 66:10	123:13 124:17
104:19 105:2,6	turn 55:22	14:18 15:1,8	131:16	141:11
105:8,11,14,16	turned 50:8	15:14 33:16	varied 52:5	wanted 84:5
105:22 106:5	TV 122:3	56:20 103:17	various 36:17	warfarin 120:22
138:8,11	twenty 130:18	104:6,8 123:20	37:5 39:3 58:8	Washoe 143:2,3
139:10 140:3,7	130:20 131:4	uninsured 48:5	71:18 89:20	wasn't 50:14
140:17	twice 139:19	unique 120:7,12	94:9 105:12	wasting 95:22
transcribed	140:14	121:4,8 122:16	110:12 119:15	96:1
143:16	two 11:5 13:12	unit 63:8 67:2	122:17 128:19	way 30:11 46:9
transcribing	19:3 25:11	United 1:1	VePesid 26:12	48:11,17 83:7
6:19	37:3 80:22	72:18 115:21	102:11	93:18,20,22
transcript	112:18 120:1	University 18:9	verbatim 143:14	97:20 99:8
143:17	120:17 121:8	18:21	versus 52:3	100:4,18 101:8
transcription	126:15 129:13	updated 111:4,9	57:19 71:3	102:2 112:19
143:19	type 116:14	111:16	93:9 117:1	125:7,9
transmittal	121:8 122:14	updates 113:8	139:18 140:14	website 63:1
13:21	139:1	upgrade 114:12	vice 37:1,3	Wednesday 4:1
transmitted	typewriting	upwards 37:10	68:11,15 69:20	143:4
110:22 111:11	143:16	up-to-date 51:5	72:16,17	weekly 63:19
travel 117:16	typical 89:6	usage 64:4	Videx 26:14	weeks 129:13
traveling 117:17	typically 42:19	use 35:8 38:21	102:14	week's 129:12
treating 98:16	45:13 49:4	39:2,12,20	visit 131:10	weren't 80:6
treatment 119:9	51:2 75:21	40:6,11 41:14	voice 73:16	132:8
120:11 121:7	112:4,5 129:15	43:2 49:6	volume-deplet...	west 4:3 37:3
125:21	132:10 133:20	63:22 75:21	88:19	68:11 74:8,11
trial 136:8,14		76:1 78:3 79:2	VP 71:7	143:5
tried 9:6	U	93:15 94:12		we'll 15:5 68:19
trigger 64:3	Uh-huh 109:19	107:7 123:9	W	68:20 81:10,11
true 143:18	Ultracel 24:21	131:7,9 132:6	WA 2:9	103:5
	undergraduate		waiting 108:14	

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

21

we're 32:15,18 32:21 35:10 61:22 62:1 63:18 87:19 96:3 113:20 134:16 wholesale 1:6 7:21 8:20 9:3 39:17 43:1,2 53:16 75:17 76:10,21,22 77:13 78:1,3 94:21 98:2 104:4,22 105:2 105:18 106:3,6 106:13,14 118:4 wholesaler 78:14,19 94:13 130:11 wholesalers 78:12 80:1 93:15 94:10 wife 10:11 WILSON 4:3 window 63:3 witness 3:2 4:7 4:9 6:3 16:19 18:2 28:14 34:17 35:21 46:15 47:5 48:3,19 50:12 51:22 55:4 57:6 60:22 65:17 68:22 70:1,18 73:11 78:5,9 79:11 83:18 84:8,11 85:14,17 91:21 92:10,17 97:5 105:5 109:19 139:14 142:10	142:14 WLP 76:5,13 Woltemath 68:8 68:9 woman 37:18 wonder 71:21 wondering 56:8 58:8 95:8 98:5 104:6 word 29:12 123:16 125:15 words 22:14 65:6 132:17 work 16:6 18:17 19:3,15 34:8 82:3 137:7 worked 16:4 19:18 71:2 106:17 137:3 workers 52:9 working 9:16 114:14 worth 129:12,13 wouldn't 10:4 72:4 88:3 113:14 132:2 133:1,2 wrap 103:5 123:6 writ 84:17 write 129:21 writing 75:2 written 38:1 39:15 40:21 41:18 49:14,17 49:21 97:16 99:21 100:2,13 101:4,7,20 102:1 140:17 W-O-L-T-E-... 68:8 X	X 1:4,10 3:1,5 47:11 XR 3:11 124:22 125:6,8 126:16 128:4 129:13 133:13 134:5 135:6 136:9,13 136:18,22 137:17,21,22 138:9,13,18 139:6,16 140:4 140:19 Y Y 47:11 yeah 9:5 36:17 48:3 72:20 85:14 96:13 114:4 125:18 130:5,16 131:17 134:2 134:15 year 8:1 13:13 22:17 47:6 88:14,14 128:5 128:6 years 6:4 8:6 21:15 22:3,17 27:21 28:7,20 28:21 29:2,4 40:18 57:7 60:19,19,20 61:1 79:15,18 79:19 80:4 81:17 106:10 106:17,22 107:5 108:7 111:20 112:10 112:18 113:11 114:12,16 116:17 117:20 118:5,22 120:6 120:15,21	121:3,16,20 122:10 129:11 Yesterday 10:18 York 2:19,19 Z Z 47:11 Zoloft 122:3 Zucker 2:16 5:10 10:20 13:5,7,11 14:1 17:6,20 55:9 55:13 56:18 57:2,8 96:6 114:17 135:15 141:4 # #113 1:22 143:22 0 001 3:7 11:6,19 12:12 14:21 17:3 31:13 67:19 109:4 001512460 124:20 001512461 124:20 001512472 135:3 001512473 135:4 002 3:8 11:7 12:5 15:13,17 17:3 31:14 003 3:9 54:13 004 3:3,11 124:14,22 005 3:13 134:20 01-CV-12257-... 1:7	011 3:7,8 054 3:10 1 1 32:8 34:1 39:11 67:18 143:18 1/1 56:7,13 58:5 58:8 1/1/94 58:18 10th 4:4 143:6 100 4:3 143:5 10022 2:19 11 55:22 117:9 124:12 118 143:18 12 134:19 12:34 141:14 124 3:12 13 54:12 1301 2:7 134 3:14 1456 1:5 15 79:15,18,19 106:10,17,22 107:5 111:20 112:10 116:17 117:20 118:5 118:21 120:6 120:15,21 121:3,16,20 122:9 180 110:3 1979 8:9,10,20 20:3 79:11 1990 24:9 1990s 24:4,5 46:11,12 71:22 75:13 76:19 90:12 91:1 1991 23:15 26:19 32:10 34:5 44:16
---	---	--	---	--

Tabano, Charles

HIGHLY CONFIDENTIAL
Reno, NV

August 23, 2006

22

77:4 87:15	4 54:20			
94:12 95:10	4/5/01 135:7			
96:22 97:9,17				
98:6,10 99:1	6			
99:12,15,18	6th 13:21			
100:6 101:1,14	623-7292 2:10			
101:17 102:4,7	6325 5:2			
102:10,13,19				
103:1,11 117:3	7			
1994 58:5,8	775-741-0772			
1999 24:9 56:14	5:4			
2	8			
2 31:20 39:11	80s 9:2 80:11			
2000 128:9	875 2:18			
2000s 25:10				
2001 128:9	9			
2002 27:22	9:36 4:2 143:5			
2006 1:15 4:2	90s 23:15 24:8			
54:20 56:7	26:19 27:7			
142:9,18 143:4	29:10 44:13			
143:20	45:21 46:6			
206 2:10	49:19,20 53:14			
212 2:20	54:2 61:5			
23 1:15 4:2	62:11 70:12			
143:4	71:17 73:3,8			
23rd 143:20	77:20 79:5			
24 60:19,19	80:12 82:4,7			
25 21:15 60:19	86:10			
60:19	91 79:14 80:4			
27 22:17	918-3000 2:20			
2900 2:8	94 58:15			
	98101 2:9			
3	9999 56:14,20			
3 31:21 39:11				
109:4,6,7,17				
133:14				
30th 128:5				
30(b)(6) 3:7,8				
11:5,20 12:5				
54:18 96:2				
4				